LAWS

of the

STATE OF UTAH, 1957

Passed at the

REGULAR SESSION

of the

THIRTY-SECOND LEGISLATURE

Convened at the Capitol in the City of Salt Lake

January 14, 1957

And Adjourned Sine Die on

March 14, 1957

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AUTHENTICATION

State of Utah }
Office of Secretary of State } ss.

THIS IS TO CERTIFY that the acts, resolutions and memorials published in this volume beginning at Page One and ending at Page four hundred fifty-nine, are each full, true and correct copies of the originals, passed at the regular session of the Thirty-Second Legislature of the State of Utah, as they appear of record in the Office of the Secretary of State;

That the regular session of the Thirty-Second Legislature of the State of Utah, was convened at the Capitol in the city of Salt Lake, January 14, 1957, and adjourned sine die on March 14, 1957.

That all the acts, resolutions and memorials passed at said regular session were officially published on the 14th day of May, 1957.

IN TESTIMONY WHEREOF, I have hereunto set my hand as Secretary of State and affixed the Great Seal of the State of Utah, at Salt Lake City, this 14th day of May, 1957.

Lamont F. Toronto

Secretary of State.

LAWS

of the

STATE OF UTAH, 1957

Passed at the

THIRTY-SECOND REGULAR SESSION

of the Legislature

AGRICULTURAL DEPARTMENT — IN GENERAL

CHAPTER 1

S. B. No. 166. (Passed March 13, 1957. In effect May 14, 1957.)

SELF HELP — MEAT PROMOTION PROGRAM

An Act Providing for Producers of Cattle to Make Deductions for a Self-Help-Meat Promotion Program, Requiring Marketing Agencies That Handle the Sale of Any Cattle to Make Collections from the Producers for the Purpose of Promotion by the Utah Cattle Growers Association.

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

Section 1. Deduction at Request of Cattle Growers Association—Sales. Any marketing agency that handles the sale of any cattle on any public market, shall, upon the request of the Utah Cattle Growers Association deduct from the proceeds of such sale or sales, a sum not to exceed ten cents per head for cattle or calves.

Section 2. Objection to Deductions — Request for Refunds. In the event the shipper of such livestock objects to the deduction of such amounts from his account of sales, such shipper shall, within thirty days after receipt of the account of sales showing such deductions, request refunds of such amount or amounts so deducted; in which event the market agency that has made such deduction shall refund the amount or amounts so deducted to the shipper who has requested such refund.

Section 3. Waiver of Refund — Presumption. If no request for refund has been made within thirty days after the shipper has been delivered the account of sales showing such deductions, then the shipper is conclusively presumed to have agreed to such deductions, and the market agency that has made such deduction shall pay the amount so deducted to the Utah Cattle Growers Association.

Approved March 22, 1957.

CHAPTER 2

S. B. No. 19. (Passed February 6, 1957. In effect January 1, 1958.)

COMMERCIAL FEEDING STUFFS

An Act Providing for Regulation of Commercial Feed; and Repealing Title 4, Chapter 18, Utah Code Annotated 1953, Relating to the Sale and Distribution of Commercial Feeds in the State of Utah; Providing Regulations, Penalty, Duties; and the Effective Date.

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

Section 1. Title of Act.
This act shall be known as the "Utah Commercial Feed Law of 1957."

Section 2. Administration of Act.
This act shall be administered by the board of agriculture of the State of Utah, hereinafter referred to as the "board."

Section 3. Definitions.
When used in this act:

1. The term "person" includes individual, partnership, corporation and association.

2. The term "distribute" means to offer for sale, sell, barter, or otherwise supply commercial feeds or custom mix feeds. The term "distributor" means any person who distributes.

3. The term "sell" or "sale" includes exchange.

4. The term "commercial feed" means all materials which are distributed for use as feed for fowl or animals other than man except:
(1) Unmixed or unprocessed whole seeds.
(2) Unground hay.
(3) Whole or ground straw, stover, silage, cobs, and hulls when not mixed with other materials.

5. The term "feed ingredient" means each of the constituent materials making up a commercial feed.

6. The term "custom mix feed" means a mixture which contains commercial feed ingredients, each batch of which mixture is formulated according to the specific instructions of the final purchaser.

7. The term "brand" means the term, design, trademark, or other specific designation under which an individual commercial feed is distributed in this state.

8. The term "label" means a display of written, printed, or graphic matter upon or affixed to the container in which a commercial feed is distributed, or on the invoice or delivery slip with which a commercial feed or custom feed is distributed.

9. The term "ton" means a net weight of two thousand pounds avoirdupois.

10. The term "per cent" or "percentage" means percentage by weight.

11. The term "official sample" means any sample of feed taken by the board or its agent and designated as "official" by the board.

Section 4. Registration of Commercial Feed — Expiration of Registration — Forms.

1. Each commercial feed shall be registered before being distributed in this state; *provided,* that custom mix feeds are exempt from registration. The application for registration shall be submitted on forms furnished by the board, and, if the board so requests, shall also be accompanied by a label or other printed matter describing the product. Upon approval by the board a copy of the registration shall be furnished to the applicant. All registrations expire on December 31, of each year. The application shall include the information required by paragraphs (2), (3), (4), and (5) of subsection 1 of Section 5.

2. A distributor shall not be required to register any brand of commercial feed which is already registered under this act by another person.

3. Changes in the guarantee of either chemical or ingredient composition of a registered commercial feed may be permittd provided there is satisfactory evidence that such changes would not result in a lowering of the feeding values of the product for the purpose for which designed. Applications to make such changes must be made upon forms supplied by the board.

4. The board is empowered to refuse registration oī any application not in compliance with the provisions of this act and to cancel any registration subsequently found not to be in compliance with any provision of this act; *provided, however,* that no registration shall be refused or cancelled until the registrant shall have been given opportunity to be heard before the board and to amend his application in order to comply with the requirements of this act.

Section 5. Commercial Feed to be Labeled — Information Required.

1. Any commercial feed distributed in this state shall be accompanied by legible label bearing the following information:

(1) The net weight.

(2) The name or brand under which the commercial feed is sold.

(3) The guaranteed analysis of the commercial feed, listing the minimum percentage of crude protein, minimum percentage of crude fat and maximum percentage of crude fiber. For mineral feeds the list shall include the following if added: Minimum and maximum percentage of calcium (Ca), minimum percentage of phosphorus (P), minimum percentage of iodine (I), and minimum and maximum percentages of salt (NaCl). Other substances or elements, determinable by laboratory methods, may be guaranteed by permission of the board. When any items are guaranteed, they shall be subject to inspection and analysis in accordance with the methods and regulations that may be prescribed by the board. Products sold solely as mineral and/or vitamin supplements and guaranteed as specified in this Section need not show guarantees for protein, fat and fiber.

(4) The common or usual name of each ingredient used in the manufacture of commercial feed, except as the board may, by regulation, permit the use of a collective term for a group of ingredients all of which perform the same function.

(5) The name and principal address of the person responsible for distributing the commercial feed.

2. When a commercial feed is distributed in this state in bags or other containers, the label shall be placed on or affixed to the container; when a commercial feed is distributed in bulk the label shall accompany delivery and be furnished to the purchaser at time of delivery.

3. A custom mix feed shall be labeled by invoice. The invoice, which is to accompany delivery and be supplied to the purchaser at the time of delivery, shall bear the following information:

(1) Name and address of the mixer.

(2) Name of purchaser.

(3) Date of sale.

(4) Brand name and number of pounds of each registered commercial mixed feed used in the mixture and the name and number of pounds of each other feed ingredient added. The board may permit the use of a code name or number to designate ingredients on repeat orders of the same formula, to the same purchaser, *provided* the original invoice clearly identifies each and every ingredient used in the custom-mix feed.

4. Vitamin, antibiotic and medicinal premixes intended to be used in the manufacture of commercial feeds shall be labeled to show the name of each ingredient and the potency or concentration of the active ingredient.

5. If a commercial feed or a custom mix feed contains a non-nutritive substance which is intended for use in the diagnosis, cure, mitigation, treatment or prevention of diseases or which is intended to affect the structure of any function of the animal body the board may require the label to show the amount present, directions for use, and/or warnings against misuse of the feed.

Section 6. Registration Fee—Application—Filing—Records to be Kept.

1. There shall be paid to the board for all commercial feeds distributed in this state an annual registration fee of $5.00 for each brand. A fee of $1.00 per brand shall accompany each application for change of registration affecting chemical or ingredient composition. In the case of custom mix feeds there shall be paid to the board for all such feeds distributed, an inspection fee at the rate of five cents per ton; *provided,* that in lieu of the payment of a tonnage tax on custom mix feeds a person may apply to the board for a permit to do custom mixing. Upon issuance of such a permit the payment of the custom mix inspection fee shall not be required. All custom mix permits shall expire on December 31 of each year. A fee of $50.00 shall accompany each application for a custom mix permit. A manufacturer of vitamin premixes intended for manufacturing purposes only, may, in lieu of registering subsequent formulations of the same brand of a premix already registered, secure a permit from the board before distributing such premix within the state. The fee for such permit shall be $25.00 per year and shall accompany the application for the premix permit. Such premix permits shall expire December 31, of each year. The board shall have power to revoke a custom mix or premix permit if the permittee violates any provisions of this act pertaining to the distribution of custom mix or premix feed. Fees so collected shall constitute a fund for the payment

of the costs of inspection, sampling, and analysis, and other expenses necessary for the administration of this act.

2. Every person except as hereinafter provided, who distributes custom-mix feed in this state shall:

(1) File not later than the last day of January of each year an annual certified statement, setting forth the number of net tons of custom mix feeds distributed in this state during the preceding calendar year; and upon filing such statement shall pay the inspection fee at the rate stated in paragraph 1 of this section, *provided*, that, in case a person has obtained a custom mix permit and operated during the preceding year by authority of such permit to do custom mixing he shall not be required to submit a tonnage report or pay a tonnage tax for custom mixing. When more than one person is involved in the distribution of a custom mixed feed, the person who distributes to the consumer is responsible for reporting the tonnage and paying the inspection fee for custom mix feeds unless the report and payment have been made by a prior distributor of the feed.

(2) Keep such records as may be necessary or required by the board to indicate accurately the tonnage of custom mix feed distributed in this state, and the board shall have the right to examine such records to verify statements of tonnage.

Failure to make an accurate statement of tonnage or to pay the inspection fee for custom mix feeds distributed, or comply as provided herein shall constitute sufficient cause to restrict or prohibit further distribution of custom mix feed.

Section 7. Certain Feeds and Feed Mixes Deemed Adulterated — Contents.

No person shall distribute an adulterated feed. A commercial feed or custom mix feed shall be deemed to be adulterated:

1. If any poisonous, deleterious or non-nutritive ingredient has been added in sufficient amount to render it injurious to health when fed in accordance with directions for use on the label.

2. If any valuable constitutent has been in whole or part omitted or abstracted therefrom or any less valuable substance substituted therefor.

3. If its composition of quality falls below or differs from that which it is purported or is represented to possess by its labeling.

4. If it contains added hulls, screenings, straw, cobs, or other high fiber material unless the name of each such material is stated on the label.

Section 8. Ban Against Misbranded Feed—What Deemed Misbranded.

No person shall distribute misbranded feed. A commercial feed or custom mix feed shall be deemed to be misbranded:

1. If its labeling is false or misleading in any particular.

2. If it is distributed under the name of another feed.

3. If it is not labeled as required in Section 5 of this act and regulations prescribed under this act.

4. If it purports to be or is represented as a feed ingredient, or if it purports to contain or is represented as containing a feed ingredient, unless such feed ingredient conforms to the definition of identity, if any,

prescribed by regulation by the board; in the adopting of such regulations the board shall give due regard to commonly accepted definitions such as those issued by the Association of American Feed Control Officials.

5. If any word, statement or other information required by or under authority of this act to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

Section 9. Duty of Board—Inspections—Tests—Enforcement of Act.

1. It shall be the duty of the board, who may act through its authorized agent, to sample, inspect, make analyses of, and test commercial feeds and custom mix feeds distributed within this state at such time and place to such an extent as it may deem necessary to determine whether such feeds are in compliance with provisions of this act. The state chemist shall analyze all samples of commercial feed or custom mix feed submitted by the board. The board or its agent, is authorized to enter upon any public or private premises including any vehicle of transport during regular business hours in order to have access to commercial feeds and custom mix feeds and to records relating to their distribution.

2. The methods of sampling and analysis shall be those adopted by the board from sources such as the Journal of the Association of Official Agricultural Chemists.

3. The board, in determining for administrative purposes whether a commercial feed is deficient in any component, shall be guided solely by the official sample as defined in paragraph 11 of Section 3 and obtained and analyzed as provided in paragraph 2 of Section 9.

4. When the inspection and analysis of an official sample indicates a commercial feed has been adulterated or misbranded, the results of analysis shall be forwarded by the board to the distributor and the purchaser. Upon request within thirty days after issuance of the report, the board shall furnish to the distributor a portion of the sample concerned.

Section 10. Enforcement of Act—Promulgation of Rules.

The board is hereby charged with the enforcement of this act, and after due publicity and public hearing is empowered to promulgate and adopt such reasonable rules and regulations as may be necessary in order to secure the efficient administration of this act. Publicity concerning the public hearing shall be reasonably calculated to give interested parties adequate notice and adequate opportunity to be heard.

Section 11. Enforcement of Act—Release of Feed—Condemnation of Feed.

1. When the board or its authorized agent has reasonable cause to believe any lot of commercial feed is being distributed in violation of any of the provisions of this act or of any of the prescribed regulations under this act, it may issue and enforce a written or printed quarantine order, warning the distributor not to dispose of the lot of feed in any manner until written permission is given by the board or the Court. The board shall release the lot of commercial feed so withdrawn when said provi-

sions and regulations have been complied with. If compliance is not obtained within 30 days, the board may begin, or upon request of the distributor shall begin, proceedings for condemnation.

2. Any lot of commercial feed not in compliance with said provisions and regulations shall be subject to seizure on complaint of the board to a court of competent jurisdiction in the area in which said commercial feed is located. In the event the court finds the said commercial feed to be in violation of this act and orders the condemnation of said commercial feed, it shall be disposed of in any manner consistent with the quality of the commercial feed and laws of the state; provided, that in no instance shall the disposition of said commercial feed be ordered by the court without first giving the claimant opportunity to apply to the court for release of said commercial feed or for permission to process or re-label said commercial feed to bring it into compliance with this act.

Section 12. Violations—Misdemeanor—Penalty—Enforcement.

1. Any person convicted of violating any of the provisions of this act or the rules and regulations issued thereunder or who shall impede, obstruct, hinder, or otherwise prevent or attempt to prevent said board or its duly authorized agent in performance of its duty in connection with the provisions of this act, shall be adjudged guilty of a misdemeanor and shall be fined not less than $50.00 or more than $100.00 for the first violation, and not less than $100.00 or more than $299.00 for a subsequent violation. In all prosecutions under this act involving the composition of a lot of commercial feed, a certified copy of the official analysis signed by the state chemist shall be accepted as prima facie evidence of the composition.

2. Nothing in this act shall be construed as requiring the board or its representatives to report for prosecution or for the institution of seizure proceedings as a result of minor violations of the act when it believes that the public interests will be best served by a suitable notice of warning in writing.

3. It shall be the duty of each county attorney to whom any violation is reported to cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay. Before the board reports a violation for such prosecution, an opportunity shall be given the distributor to present his view to the board.

4. The board is hereby authorized to apply for and the court to grant a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this act or any rule or regulation promulgated under the act notwithstanding the existence of other remedies at law. Said injunction to be issued without bond.

5. Any person adversely affected by an act, order or ruling made pursuant to the provisions of this act may within 45 days thereafter bring action in the district court for new trial of the issues bearing upon such act, order or ruling, and upon such trial the court may issue and enforce such orders, judgments or decrees as the court may deem proper, just and equitable.

Section 13. Publication by Board of Information Concerning Sales of Feeds.

The board may publish at least annually, in such forms as it may deem proper, information concerning the sales of commercial feeds,

together with such data on their production and use as it may consider advisable, and a report of the analyses of offical samples of commercial feeds sold within the state as compared with the analyses guaranteed in the registration and on the label; provided that the information concerning production and use of commercial feeds shall not disclose the operations of any person.

Section 14. Constitutionality.

If any clause, sentence, paragraph, or part of this act shall for any reason be judged invalid by any court of competent jurisdiction, such judgment shall not affect, impair, or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Section 15. Inconsistent Acts Repealed.

All laws and parts of laws in conflict with or inconsistent with the provisions of this act are hereby repealed.

Section 16. Sections Repealed.

Sections 4-18-1, 4-18-2, 4-18-2, 4-18-3, 4-18-4, 4-18-5, 4-18-6, 4-18-7, 4-18-8, 4-18-9, and 4-18-10, Utah Code Annotated 1953, are hereby repealed.

Section 17. Effective Date.

This act shall take effect on January 1, 1958.

Approved February 15, 1957.

CHAPTER 3

H. B. No. 100. (Passed March 11, 1957. In effect May 14, 1957.)

DAIRY AND FOOD PRODUCTS

An Act Establishing a Food, Drug and Cosmetic Law to be Administered by the Department of Agriculture; Defining Terms Used; Setting Forth Certain Prohibited Acts; Authorizing the Board of Agriculture to Seek Injunctions; Providing for the Seizure of Adulterated or Misbranded Articles of Foods, Drugs and Cosmetics; Defining Adulteration and Misbranding of Foods, Drugs and Cosmetics; Authorizing the State Board of Agriculture to Promulgate Rules and Regulations Concerning Definitions and Standards of Foods; Permitting the Board to Issue and Suspend Emergency Food Permits; Authorizing the State Board of Agriculture to Establish Tolerances for Added Poisonous Substances to Foods; Relating to False Advertising of Foods, Drugs and Cosmetics; Authorizing the State Board of Agriculture to Conduct Hearings; to Promulgate Rules and Regulations for the Enforcement of this Act; to Make Inspections and Examinations and to Publish Certain Reports; Providing for Prosecutions and Penalties; Repealing Sections 4-20-2, 4-20-3, 4-20-4, 4-20-5, 4-20-6, 4-20-7, 4-20-9, 4-20-10, 4-20-11, 4-20-12, 4-20-13, 4-20-29, 4-20-32, 4-20-33, 4-20-34, 4-20-35, 4-20-38, 4-20-39, 4-20-40, 4-20-43, 4-20-44, 4-20-45, 4-20-46, 4-20-51, 4-20-53, 4-20-70 and 4-20-71, Utah Code Annotated, 1953; 4-

20-8, Utah Code Annotated, 1953, as Amended by Chapter 4, Laws of Utah, 1953 and Chapter 6, Laws of Utah 1955; 4-20-36 and 4-20-37, Utah Code Annotated 1953 as Amended by Chapter 5, Laws of Utah 1953.

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

Section 1. Title of Act.

This act may be cited as the Utah Food, Drug and Cosmetic Act.

Section 2. Definitions.

For the purpose of this act:

1. The term "board" means the state board of agriculture. The term "board of pharmacy" means the Utah state board of pharmacy.

2. The term "person" includes individual, partnership, corporation, and association.

3. The term "food" means (1) articles used for food or drink for man or other animals, (2) chewing gum, and (3) articles used for components of any such article.

4. The term "drug" means (1) articles recognized in the official United States Pharmacopoeia, official Homoeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; and (2) articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals; and (3) articles, other than food, intended to affect the structure or any function of the body of man or other animals; and (4) articles intended for use as a component of any articles specified in clause (1), (2), or (3); but does not include devices or their components, parts, or accessories.

5. The term "device", except when used in subsection 11 of this section and in subsection 10 of section 3, subsection 6 of section 11, subsection 3 of section 15 and subsection 3 of section 18, means instruments, apparatus and contrivances, including their components, parts and accessories, intended (1) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; or (2) to affect the structure or any function of the body of man or other animals.

6. The term "cosmetic" means (1) articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, and (2) articles intended for use as a component of any such articles; except that such term shall not include soap.

7. The term "official compendium" means the official United States Pharmacopoeia, official Homoeopathic Pharmacopoeia of the United States, official National Formulary, or any supplement to any of them.

6. The term "label" means a display of written, printed or graphic matter upon the immediate container of any article; and a requirement made by or under authority of this act that any word, statement, or other information appear on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if any there be, of the retail package of such article, or is easily legible through the outside container or wrapper.

9. The term "immediate container" does not include package liners.

10. The term "labeling" means all labels and other written, printed or graphic matter (1) upon an article or any of its containers or wrappers, or (2) accompanying such article.

11. If an article is alleged to be misbranded because the labeling is misleading, or if an advertisement is alleged to be false because it is misleading, then in determining whether the labeling or advertisement is misleading, there shall be taken into account (among other things) not only representations made or suggested by statement, word, design, device, sound, or in any combination thereof, but also the extent to which the labeling or advertisement fails to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of the article to which the labeling or advertisement relates under the conditions of use prescribed in the labeling or advertisement thereof or under such conditions of use as are customary or usual.

12. The term "advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of foods, drugs, devices, or cosmetics.

13. The representation of a drug, in its labeling or advertisement, as an antiseptic shall be considered to be a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or such other use as involves prolonged contact with the body.

14. The term "new drug" means (1) any drug the composition of which is such that such drug is not generally recognized among experts qualified by scientific training and experience to evaluate the safety of drugs, as safe for use under the conditions prescribed, recommended, or suggested in the labeling thereof; or (2) any drug the composition of which is such that such drug, as a result of investigations to determine its safety for use under such conditions, has become so recognized, but which has not, otherwise than in such investigations, been used to a material extent or for a material time under such conditions.

15. The term "contaminated with filth" applies to any food, drug, device, or cosmetic not securely protected from dust, dirt, and as far as may be necessary by all reasonable means, from all foreign or injurious contaminations.

16. The provisions of this act regarding the selling of food, drugs, devices, or cosmetics, shall be considered to include the manufacture, production, processing, packing, exposure, offer, possession, and holding of any such article for sale; and the sale, dispensing, and giving of any such article, and the supplying or applying of any such articles in the conduct of any food, drug or cosmetic establishment.

17. The term "Federal Act" means the Federal Food, Drug and Cosmetic Act.

Section 3. Acts Prohibited.

The following acts and the causing thereof within the State of Utah are prohibited:

1. The manufacture, sale, or delivery, holding or offering for sale of

any food, drug, device, or cosmetic that is adulterated or misbranded.

2. The adulteration or misbranding of any food, drug, device, or cosmetic.

3. The receipt in commerce of any food, drug, device, or cosmetic that is adulterated or misbranded, and the delivery of proffered delivery thereof for pay or otherwise.

4. The sale, delivery for sale, holding for sale, or offering for sale of any article in violation of Section 12 or Section 16.

5. The dissemination of any false advertisement.

6. The refusal to permit entry or inspection, or to permit the taking of a sample, as authorized by Section 21.

7. The giving of a guaranty or undertaking, which guaranty or undertaking is false, except by a person who relied on a guaranty or undertaking to the same effect signed by, and containing the name and address of the person residing in the State of Utah from whom he received in good faith the food, drug, device, or cosmetic.

8. The removal or disposal of a detained or embargoed article in violation of Section 6.

9. The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of, or the doing of any other act with respect to a food; drug, device, or cosmetic, if such act is done while such article is held for sale and results in such article being misbranded or adulterated.

10. Forging, counterfeiting, simulating, or falsely representing, or without proper authority using any mark, stamp, tag, label, or other identification device authorized or required by regulations promulgated under the provisions of this act.

11. The using, on the labeling of any drug or in any advertisement relating to such drug, of any representation or suggestion that an application with respect to such drug is effective under Section 16 of this act, or that such drug complies with the provisions of such section.

12. The exposing for sale of oleomargarine or any similar substance not marked and distinguished on the outside of each tub, package or parcel thereof by a placard bearing the word "Oleomargarine" and not having also upon the exposed contents of every open tub, package or parcel thereof a conspicuous placard bearing the word "Oleomargarine." Such placard in each case shall be printed in plain, uncondensed gothic letters not less than one inch long, and shall contain no other words thereon.

13. The furnishing or causing to be furnished in any hotel, boarding house or restaurant, or at any lunch counter, oleomargarine or any similar substance to any guest or patron thereof without first notifying each guest or patron that the substance so furnished is not butter.

14. The reducing of the strength of vinegar purchased and sold by a person, with water or other substance, unless such person is a licensed rectifier and marks in plain figures on the container thereof the strength of the vinegar and the fact that has been diluted with water or other substance. Such person shall not be granted a license as a rectifier until he shall have made written application to the state board of agriculture, setting forth by affidavit that he is of the age of twenty-one years, and until he shall have paid a license fee of $100 per year.

Section 4. Additional Remedies — Enforcement — District Court.

In addition to the remedies hereinafter provided the board is authorized to apply to the district court for, and such court shall have jurisdiction upon hearing and for cause shown, to grant a temporary or permanent injunction restraining any person from violating any provision of Section 3; irrespective of whether or not there exists an adequate remedy at law.

Section 5. Violation—Misdemeanor—Limitation.

1. Any person who violates any of the provisions of Section 3 shall be guilty of a misdemeanor.

2. No person shall be subject to the penalties of subsection 1 of this section, for having violated subsections 1 or 3 of Section 3 if he establishes a guaranty or undertaking signed by, and containing the name and address of, the person residing in the State of Utah from whom he received in good faith the article, to the effect that such article is not adulterated or misbranded within the meaning of this act, designating this act.

3. No publisher, radio-broadcast licensee, or agency or medium for the dissemination of an advertisement, except the manufacturer, packer, distributor, or seller of the article to which a false advertisement relates, shall be liable under this section by reason of the dissemination by him of such false advertisement, unless he has refused, on the request of the board to furnish the board the name and post office address of the manufacturer, packer, distributor, seller, or advertising agency, residing in the State of Utah who caused him to disseminate such advertisement.

Section 6. Adulterated, Misbranded Products — Duty of Agent — Release of Product by Agent or Court.

1. Whenever a duly authorized agent of the board finds or has probable cause to believe, that any food, drug, device, or cosmetic is adulterated, or so misbranded as to be dangerous or fraudulent, within the meaning of this act, he shall affix to such article a tag or other appropriate marking, giving notice that such article is, or is suspected of being, adulterated or misbranded and has been detained or embargoed, and warning all persons not to remove or dispose of such article by sale or otherwise until permission for removal or disposal is given by such agent or the court. It shall be unlawful for any person to remove or dispose of such detained or embargoed article by sale or otherwise without such permission.

2. When an article detained or embargoed under subsection 1 has been found by such agent to be adulterated, or misbranded, he shall petition the judge of the police, county, or district court in whose jurisdiction the article is detained or embargoed for a libel for condemnation of such article. When such agent has found that an article so detained or embargoed is not adulterated or misbranded, he shall remove the tag or other marking.

3. If the court finds that a detained or embargoed article is adulterated or misbranded, such article shall, after entry of the decree be destroyed at the expense of the claimant thereof, under the supervision of such agent, and all court costs and fees, and storage and other proper expenses, shall be taxed against the claimant of such article or his

agent; *provided,* that when the adulteration or misbranding can be corrected by proper labeling or processing of the article, the court, after entry of the decree and after such costs, fees, and expenses have been paid and a good and sufficient bond, conditioned that such article shall be so labeled or processed, has been executed, may by order direct that such article be delivered to the claimant thereof for such labeling or processing under the supervision of an agent of the board. The expense of such supervision shall be paid by the claimant. Such bond shall be returned to the claimant of the article on representation to the court by the board that the article is no longer in violation of this act, and that the expenses of such supervision have been paid.

4. Whenever the board or any of their authorized agents shall find in any room, building, vehicle of transportation or other structure, any meat, sea food, poultry, vegetable, fruit or other perishable articles which are unsound, or contain any filthy, decomposed, or putrid substance, or that may be poisonous or deleterious to health or otherwise unsafe, the same being hereby declared to be a nuisance, the board, or their authorized agent, shall forthwith condemn or destroy the same, or in any other manner render the same unsalable as human food.

Section 7. Duty of County Attorney — Institution of Proceedings.

It shall be the duty of each county attorney, to whom the board reports any violation of this act, to cause appropriate proceedings to be instituted in the proper courts without delay and to be prosecuted in the manner required by law. Before any violation of this act is reported by the board to any such attorney for the institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given appropriate notice and an opportunity to present his views before the board or its designated agent, either orally or in writing, in person, or by attorney, with regard to such contemplated proceeding.

Section 8. Qualification as to Proceedings — Minor Violations — Discretion of Board.

Nothing in this act shall be construed as requiring the board to report for the institution of proceedings under this act, minor violations of this act, whenever the board believes that the public interest will be adequately served in the circumstances by a suitable written notice or warning.

Section 9. Promulgation of Regulations.

Whenever in the judgment of the board such action will promote honesty and fair dealing in the interest of consumers, the board shall promulgate regulations fixing and establishing for any food or class of food a reasonable definition and standard of identity, or reasonable standard of quality or fill of container. In prescribing a definition and standard of identity for any food or class of food in which optional ingredients are permitted, the board shall, for the purpose of promoting honesty and fair dealing in the interest of consumers, designate the optional ingredients which shall be named on the label. The definitions and standards so promulgated shall conform so far as practicable to the definitions and standards promulgated under authority of the Federal Act.

Section 10. Food Deemed Adulterated — When.

A food shall be deemed to be adulterated:

1. (1) If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance such food shall not be considered adulterated under this clause if the quantity of such substance in such food does not ordinarily render it injurious to health; or (2) if it bears or contains any added poisonous or added deleterious substance which is unsafe within the meaning of section 13; or (3) if it consists in whole or in part of a diseased, contaminated, filthy, putrid, or decomposed substance, or if it is otherwise unfit for food; or (4) if it has been produced, prepared, packed, or held under unsanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered diseased, unwholesome, or injurious to health; or (5) if it is the product of a diseased animal or an animal which has died otherwise than by slaughter, or that has been fed upon the uncooked offal from a slaughterhouse; or (6) if its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health.

2. (1) If any valuable constituent has been in whole or in part omitted or abstracted therefrom; or (2) if any substance has been substituted wholly or in part therefor; or (3) if damage or inferiority has been concealed in any manner; or (4) if any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength or make it appear better or of greater value than it is.

3. If it contains any added antiseptic or preservative substance or other chemical additive which has been prohibited for use in foods by the board of agriculture or which is in excess of such tolerance as has been established by the board of agriculture; *provided,* that:

(1) Tolerances and standards governing the amounts of antiseptic or preservative substance or other chemical additive which may be used in foods or food products and stating in which food products they may be used, may be established by the board upon a finding that the presence of such additive substance in food is advantageous: (a) For the satisfactory production and marketing of such food or food product, and (b) That its use at or below its tolerance level does not constitute a hazard to the health of consumers of such food. Such findings shall be made after a hearing called by the board on its own initiative or upon the request of any person.

(2) No antiseptic or preservative substance or other chemical additive not formerly used in a food may be used in such food or in the production or processing of such foods prepared for sale or sold in the State of Utah unless for a period of ninety days prior to such intended use, the proposed user has given the board of agriculture notice, in writing, of such intended or proposed use and has supplied the board with satisfactory evidence that the proposed substance is suitable and safe for use in foods, including the results of toxicological tests, conducted on the additive and such other and further information as the board of agriculture may require.

(3) Whenever the board finds that reasonable cause exists to re-

quire any person using or proposing to use in food or food products any added antiseptic or preservative substance or other chemical additive, to show that such use or proposed use does not constitute a hazard to the consumers of such food in the State of Utah, it may issue an order prohibiting such use pending a hearing on the question. Such stop order may be issued for ninety days and may be renewed for an additional period of ninety days or may be made permanent if the board finds that such action is necessary to accomplish the objectives of this act.

(4) Whenever a regulation is promulgated under authority of the Federal Food, Drug, and Cosmetic Act establishing standards for food, then the tolerances established by the board under this act shall immediately conform to the standards so established by the Federal Food and Drug Administration as herein provided and shall remain the same until such time as the board shall determine that for reasons peculiar to Utah a different regulation should be made to apply.

(5) To facilitate the interpretation of this act, the following terms are herewith defined:

The term "preservative" shall mean any substance capable of inhibiting, retarding, or arresting the process of fermentation, acidification, or decomposition of food or food material or of masking any of the evidence of such processes.

The term "antiseptic" shall mean any substance which will prevent decay or putrifaction—a substance that will inhibit the growth of microorganisms without necessarily destroying them.

The term "chemical additive" shall mean any substance not usually present in the particular food under consideration, but which has been incidentally or intentionally added to the food in its preparation or handling.

(6) Authority to promulgate regulations, tolerances and standards for the enforcement of this act is vested in the state board of agriculture.

4. If it is confectionery and it bears or contains any alcohol or non-nutritive article or substance except harmless coloring, harmless flavoring, harmless resinous glaze not in excess of four-tenths of one per cent, harmless natural wax not in excess of four-tenths of one per cent, harmless natural gum, and pectin; *provided*, that this paragraph shall not apply to any confectionery by reason of its containing less than one-half of one per cent by volume of alcohol derived solely from the use of flavoring extracts, or to any chewing gum by reason of its containing harmless non-nutritive masticatory substances.

5. If it bears or contains a coal-tar color other than one from a batch which has been certified under authority of the Federal Act.

Section 11. A Food shall be deemed to be misbranded:

A food shall be deemed to be misbranded:

1. If its label is false or misleading in any particular.
2. If it is offered for sale under the name of another food.
3. If it is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word. "imitation," and, immediately thereafter, the name of the food imitated.

4. If its container is so made, formed, or filled as to be misleading.

5. If in package form, unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; (2) an accurate statement of the quantity of the contents in terms of weight, measure or numerical count; provided, that under paragraph (2) of this subsection reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the board.

6. If any word, statement, or other information required by or under authority of this act to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

7. If it purports to be or is represented as a food for which a definition and standard of identity has been prescribed by regulations as provided by Section 9, unless (1) it conforms to such definition and standard, and (2) its label bears the name of the food specified in the definition and standard, and, in so far as may be required by such regulations, the common names of optional ingredients (other than spices, flavoring, and coloring) present in such food.

8. If it purports to be or is represented as:

(1) a food for which a standard of quality has been prescribed by regulations as provided by Section 9 and its quality falls below such standard unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard;

or

(2) a food for which a standard or standards of fill of container have ben prescribed by regulation as provided by Section 9, and it falls below the standard of fill of container applicable thereto, unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard.

9. If it is not subject to the provisions of subsection 7 of this section, unless it bears labeling clearly giving (1) the common or usual name of the food, if any there be, and (2) in case it is fabricated from two or more ingredients, the common or usual name of each such ingredient; except that spices flavorings, and colorings, other than those sold as such, may be designated as spices, flavorings, and colorings, without naming each; *provided,* that, to the extent that compliance with the requirements of paragraph (2) of this subsection is impractical or results in deception or unfair competition, exemptions shall be established by regulations promulgated by the board.

10. If it purports to be or is represented for special dietary uses, unless its label bears such information concerning its vitamin, mineral, and other dietary properties as the board determines to be, and by regulations prescribes as, necessary in order to fully inform purchasers as to its value for such uses.

11. If it bears or contains any artificial flavoring, artificial coloring, or chemical preservatives, unless it bears labeling stating that fact: *Provided,* that to the extent that compliance with the requirements of

this paragraph is impracticable, exemptions shall be established by regulations promulgated by the board.

12. If it is a product intended as an ingredient of another food and when used according to the directions of the purveyor will result in the final food product being adulterated or misbranded.

Section 12. Contamination of Food in Manufacture, Processing — Promulgation of Regulations — Suspension — Access to Factory or Establishment.

1. Whenever the board finds after investigation that the distribution in Utah of any class of food may, by reason of contamination with microorganisms during manufacture, processing, or packing thereof in any locality, be injurious to health, and that such injurious nature cannot be adequately determined after such articles have entered commerce, it then, and in such case only, shall promulgate regulations providing for the issuance, to manufacturers, processors, or packers of such class of food in such locality, of permits to which shall be attached such conditions governing the manufacture, processing, or packing of such class of food, for such temporary period of time, as may be necessary to protect the public health; and after the effective date of such regulations and during such temporary period, no person shall introduce or deliver for introduction into commerce any such food manufactured, processed, or packed by any such manufacturer, processor, or packer unless such manufacturer, processor, or packer holds a permit issued by the board as provided by such regulations.

2. The board is authorized to suspend immediately upon notice any permit issued under authority of this section if it is found that any of the conditions of the permit have been violated. The holder of a permit so suspended shall be privileged at any time to apply for the reinstatement of such permit, and the board shall, immediately after prompt hearing and an inspection of the establishment, reinstate such permit if it is found that adequate measures have been taken to comply with and maintain the conditions of the permit, as originally issued, or as amended.

3. Any officer or employee duly designated by the board shall have access to any factory or establishment, the operator of which holds a permit from the board for the purpose of ascertaining whether or not the conditions of the permit are being complied with, and denial of access for such inspection shall be ground for suspension of the permit until such access is freely given by the operator.

Section 13. Added Substances to Food — When Deemed Unsafe.

Any poisonous or deleterious substance added to any food, except where such substance is required in the production thereof or cannot be avoided by good manufacturing practice, shall be deemed to be unsafe for purposes of the application of paragraph (2) of subsection 1 of Section 10; but when such substance is so required or cannot be so avoided, the board shall promulgate regulations limiting the quantity therein or thereon to such extent as the board finds necessary for the protection of public health, and any quantity exceeding the limits so fixed shall also be deemed to be unsafe for purposes of the application of paragraph (2) of subsection 1 of Section 10. While such a regulation

is in effect limiting the quantity of any such substance in the case of any food, such food shall not, by reason of bearing or containing any added amount of such substance, be considered to be adulterated within the meaning of paragraph (1) of subsection 1 of Section 10. In determining the quantity of such added substance to be tolerated in or on different articles of food, the board shall take into account the extent to which the use of such substance is required or cannot be avoided in the production of each such article, and the other ways in which the consumer may be affected by the same or other poisonous or deleterious substances.

Section 14. When Drug or Device Deemed Adulterated.

A drug or device shall be deemed to be adulterated:

1. (1) If it consists in whole or in part of any filthy, putrid, or decomposed substance; or (2) if it has been produced, prepared, packed, or held under insanitary conditions whereby it may have been contaminated with filth, or whereby it may have been rendered injurious to health, or (3) if it is a drug and its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health; or (4) if it is a drug and it bears or contains, for purposes of coloring only, a coal-tar color other than one from a batch certified under the authority of the Federal Act.

2. If it purports to be or is represented as a drug the name of which is recognized in an official compendium, and its strength differs from, or its quality or purity falls below, the standard set forth in such compendium. Such determination as to strength, quality, or purity shall be made in accordance with the tests or methods of assay set forth in such compendium, or in the absence of or inadequacy of such tests or methods of assay, those prescribed under authority of the Federal Act. No drug defined in an official compendium shall be deemed to be adulterated under this paragraph because it differs from the standard of strength, quality, or purity therefor set forth in such compendium, if its difference in strength, quality, or purity from such standard is plainly stated on its label. Whenever a drug is recognized in both the United States Pharmacopoeia and the Homoeopathic Pharmacopoeia unless it is labeled and offered for sale as a homeopathic drug, in which case it shall be subject to the provisions of the Homoeopathic Pharmacopoeia of the United States and not to those of the United States Pharmacopoeia.

3. If it is not subject to the provisions of subsection 2 of this section and its strength differs from, or its purity or quality falls below, that which it purports or is represented to possess.

4. If it is a drug and any substance has been (1) mixed or packed therewith so as to reduce its quality or strength; or (2) substituted wholly or in part therefor.

Section 15. Drug or Device Deemed Misbranded — When.

A drug or device shall be deemed to be misbranded:

1. If its labeling is false or misleading in any particular.

2. If in package form unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms of

weight, measure, or numerical count; *provided,* that under subsection (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the board in conjunction with the board of pharmacy.

3. If any word, statement, or other information required by or under authority of this act to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

4. If it is for use by man and contains any quantity of the narcotic or hypnotic substance alpha-eucaine, barbituric acid, beta-eucaine, bromal, cannabis, carbromal, chloral, coca, cocaine, codeine, heroin, marihuana, morphine, opium, paraldehyde peyote, sulphonmethane, or any chemical derivative of such substance, which derivative has been by the board, in conjunction with the board of pharmacy, after investigation, found to be, and by regulations under this act, designated as, habit forming, unless its label bears the name and quantity or proportion of such substance or derivative and in juxtaposition therewith the statement "Warning — May be habit forming."

5. If it is a drug and is not designated solely by a name recognized in an official compendium unless its label bears (1) the common or usual name of the drug, if such there be; and (2) in case it is fabricated from two or more ingredients, the common or usual name of each active ingredient, including the kind and quantity or proportion of any alcohol, and also including whether active or not the name and quantity or proportion of any bromides, ether, chloroform, acetanilid, acetphenetidin, amidopyrine, antipyrine, atropine, hyoscine, hyoscyamine, arsenic, digitalis, digitalis glucosides, mercury, ouabain, strophanthin, strychnine, thyroid, or any derivative or preparation of any such substances, contained therein: *provided,* that to the extent that compliance with the requirements of paragraph (2) of this subsection is impracticable, exemptions shall be established by regulations promulgated by the board in conjunction with the board of pharmacy.

6. Unless its labeling bears (1) adequate directions for use; and (2) such adequate warnings against use in those pathological conditions or by children where its use may be dangerous to health, or against unsafe dosage or methods or duration of administration or application, in such manner and form, as are necessary for the protection of users: *Provided,* that where any requirement of subsection (1) of this paragraph, as applied to any drug or device, is not necessary for the protection of the public health, the board in conjunction with the board of pharmacy shall promulgate regulations exempting such drug or device from such requirements.

7. If it purports to be a drug the name of which is recognized in an official compendium, unless it is packaged and labeled as prescribed therein: *Provided,* that the method of packing may be modified with the consent of the board, in conjunction with the board of pharmacy. Whenever a drug is recognized in both the United States Pharmacopoeia and the Homoeopathic Pharmacopoeia of the United States, it shall be subject to the requirements of the United States Pharmacopoeia with

respect to packaging and labeling unless it is labeled and offered for sale as a homoeopathic drug, in which case it shall be subject to the provisions of the Homoeopathic Pharmacopoeia of the United States, and not to those of the United States Pharmacopoeia.

8. If it has been found by the board in conjunction with the board of pharmacy, to be a drug liable to deterioration, unless it is packaged in such form and manner, and its label bears a statement of such precautions, as the board, in conjunction with the board of pharmacy, shall by regulations require as necessary for the protection of public health. No such regulation shall be established for any drug recognized in an official compendium until the board shall have informed the appropriate body charged with the revision of such compendium of the need for such packaging or labeling requirements and such body shall have failed within a reasonable time to prescribe such requirements.

9. (1) If it is a drug and its container is so made, formed, or filled as to be misleading; or (2) if it is an imitation of another drug; or (3) if it is offered for sale under the name of another drug.

10. If it is dangerous to health when used in the dosage, or with the frequency or duration prescribed, recommended, or suggested in the labeling thereof.

Section 16. Restriction on Sale — Requirements.

1. No person shall sell, deliver, offer for sale, hold for sale or give away any new drug unless (1) an application with respect thereto has become effective under section 505 of the Federal Act, or (2) when not subject to the Federal Act unless such drug has been tested and has not been found to be unsafe for use under the conditions prescribed, recommended, or suggested in the labeling thereof, and prior to selling or offering for sale such drug, there has been filed with the board an application setting forth (a) full reports of investigations which have been made to show whether or not such drug is safe for use; (b) a full list of the articles used as components of such drug; (c) a full statement of the composition of such drug; (d) a full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of such drug; (e) such samples of such drug and of the articles used as components thereof as the board in conjunction with the board of pharmacy may require; and (f) specimens of the labeling proposed to be used for such drug.

2. An application provided for in paragraph 2 subsection 1 shall become effective on the 60th day after the filing thereof, except that if the board in conjunction with the board of pharmacy finds after due notice to the applicant and giving him an opportunity for a hearing, that the drug is not safe for use under the conditions prescribed, recommended, or suggested in the proposed labeling thereof, the board shall, prior to the effective date of the application, issue an order refusing to permit the application to become effective.

3. This section shall not apply:

(1) to a drug intended solely for investigational use by experts qualified by scientific training and experience to investigate the safety in drugs provided the drug is plainly labeled "For investigational use only"; or

(2) to a drug sold in this state at any time prior to the enactment of this act or introduced into interstate commerce at any time prior to the enactment of the Federal Act; or

(3) to any drug which is licensed under the virus, serum, and toxin Act of July 1, 1902 (U. S. C. 1934 ed. title 42, Chap. 4).

4. An order refusing to permit an application under this section to become effective may be revoked by the board, in conjunction with the board of pharmacy.

Section 17. Cosmetics Deemed Adulterated — When.

A cosmetic shall be deemed to be adulterated:

1. If it bears or contains any poisonous or deleterious substance which may render it injurious to users under the conditions of use prescribed in the labeling or advertisement thereof, or under such conditions of use as are customary or usual: *provided,* that this provision shall not apply to coal-tar hair dye when the label of which bears the following legend conspicuously displayed thereon: "Caution—This product contains ingredients which may cause skin irritation on certain individuals and a preliminary test according to accompanying directions should first be made. This product must not be used for dyeing eyelashes or eyebrows; to do so may cause blindness," and the labeling of which bears adequate directions for such preliminary testing. For the purpose of subsections 1 and 4 of this Section the term "hair dye" shall not include eyelash dyes or eyebrow dyes.

2. If it consists in whole or in part of any filthy, putrid, or decomposed substance.

3. If it has been produced, prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health.

4. If its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health.

5. If it is not a hair dye and it bears or contains a coal-tar color other than one from a batch which has been certified under authority of the Federal Act.

Section 18. Cosmetics Deemed Misbranded — When.

A cosmetic shall be deemed to be misbranded:

1. If its labeling is false or misleading in any particular.

2. If in package form unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count: *provided,* that under paragraph (2) of this subsection reasonable variations shall be permitted, and exemptions as to small packages shall be established by regulations prescribed by the board.

3. If any word, statement, or other information required by or under authority of this act to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such

terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

4. If its container is so made, formed, or filled as to be misleading.

Section 19. Certain Advertising Deemed False.

1. An advertisement of a food, drug, device, or cosmetic shall be deemed to be false if it is false or misleading in a material respect.

2. For the purpose of this act the advertisement of a drug or device representing it to have any effect in albuminuria, appendicitis, arteriosclerosis, blood poison, bone disease, Bright's disease, cancer, carbuncles, cholecytitis, diabetes, diphtheria, dropsy, erysipelas, gallstones, heart and vascular diseases, high blood pressure, mastoiditis, measles, meningitis, mumps, nephritis, otitis media, paralysis, pneumonia, poliomyelitis (infantile paralysis), prostate gland disorders, pyelitis, scarlet fever, sexual impotence, sinus infection, smallpox, tuberculosis, tumors, typhoid, uremia, venereal disease, shall also be deemed to be false, except that no advertisement not in violation of subsection 1 shall be deemed to be false under this subsection if it is disseminated only to members of the medical, dental or veterinary professions, or is disseminated only for the purpose of public health education by persons not commercially interested, directly or indirectly, in the sale of such drugs or devices: *provided,* that whenever the board, in conjunction with the board of pharmacy, determines that an advance in medical science has made any type of self-medication safe as to any of the diseases named above, the board in conjunction with the board of pharmacy, shall by regulation authorize the advertisement of drugs having curative or therapeutic effect for such disease, subject to such conditions and restrictions as the board, with the approval of the board of pharmacy may deem necessary in the interests of public health: *provided,* that this subsection shall not be construed as indicating that self-medication for diseases other than those named herein is safe or efficacious.

Section 20. Promulgation of Regulations — Authority.

1. The authority to promulgate regulations for the efficient enforcement of this act is vested in the state board; *provided,* that where this act so specifies authority is vested in the board in conjunction with the board of pharmacy. The board is hereby authorized to make regulations promulgated under this act conform, in so far as practicable, with those promulgated under the Federal Act.

2. Hearings authorized or required by this act shall be conducted by the board or such officer, agent, or employee as the board may designate for the purpose. Except as to hearings under the drug provisions of this act in which case the hearings shall be conducted by the board and the board of pharmacy jointly or such officer, agent or employee as they may designate.

3. Before promulgating any regulations contemplated by subsection 9 or 10 of Section 11, Section 12, subsections 4, 6, 7 and 8 of Section 15 or subsection 2 of Section 19, the board shall give appropriate notice of the proposal and of the time and place for a hearing. The regulation so promulgated shall become effective on a date fixed by the board

(which date shall not be prior to thirty days after its promulgation). Such regulation may be amended or repealed in the same manner as is provided for its adoption, except that in the case of a regulation amending or repealing any such regulation the board, to such an extent, as it deems necessary in order to prevent undue hardship, may disregard the foregoing provisions regarding notice, hearing, or effective date.

Section 21. Access by Board or Agent for Inspections.

The board or its duly authorized agent shall have free access at all reasonable hours to any factory, warehouse, or establishment in which foods, drugs, devices, or cosmetics are manufactured, processed, packed, or held for introduction into commerce, or to enter any vehicle being used to transport or hold such foods, drugs, devices, or cosmetics in commerce, for the purpose:

1. of inspecting such factory, warehouse, establishment, or vehicle to determine if any of the provisions of this act are being violated, and

2. to secure samples or specimens of any food, drug, device, or cosmetic after paying or offering to pay for such sample. It shall be the duty of the board to make or cause to be made examinations of samples secured under the provisions of this section to determine whether or not any provision of this act is being violated. The board or its agent shall provide the establishment with a memorandum of inspection, with the date and the name of the agent, reporting any violations noted, and giving a receipt for all samples collected during the inspection.

Section 22. Publication of Reports.

1. The board may cause to be published from time to time reports summarizing all judgments, decrees, and court orders which have been rendered under this act, including the nature of the charge and the disposition thereof.

2. The board may also cause to be disseminated such information regarding food, drugs, devices, and cosmetics as the board deems necessary in the interest of public health and the protection of the consumer against fraud. Nothing in this section shall be construed to prohibit the board from collecting, reporting, and illustrating the results of the investigations of the board.

Section 23. Constitutionality.

If any provision of this act is declared invalid or the applicability thereof to any person or circumstances is held invalid, the validity of the remainder of the act and applicability thereof to other persons and circumstances shall not be affected thereby.

Section 24. Sections Repealed.

Secs. 4-20-2, 4-20-3, 4-20-4, 4-20-5, 4-20-6, 4-20-7, 4-20-8 as amended, 4-20-9, 4-20-10, 4-20-11, 4-20-12, 4-20-13, 4-20-29, 4-20-32, 4-20-33, 4-20-34, 4-20-35, 4-20-36 as amended, 4-20-37 as amended, 4-20-38, 4-20-39, 4-20-40, 4-20-43, 4-20-44, 4-20-45, 4-20-46, 4-20-51, 4-20-53, 4-20-70 and 4-20-71, Utah Code Annotated 1953 are repealed.

Approved March 14, 1957.

CHAPTER 4

S. B. No. 85. (Passed February 14, 1957. In effect February 23, 1957.)

DAIRY AND FOOD PRODUCTS SLAUGHTER FOR DOMESTIC USE

An Act Amending Section 4-20-68, Utah Code Annotated 1953, Relating to Inspection and Slaughtering of Animals and Providing Certain Exceptions from the Terms of the Act for Slaughtering by any Person for his Domestic Use and Slaughtering by Custom Houses for the Farmer.

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

Section 1. Section Amended.
Section 4-20-68, Utah Code Annotated 1953, is amended to read:

4-20-68. Slaughter by Farmer for Domestic Use — When Inspection Not Required.
The provisions of this chapter requiring the inspection of animals to be slaughtered shall not apply to animals slaughtered by any person for his own domestic use or that of his immediate family or to animals slaughtered for a person for his own domestic use or that of his immediate family by a custom slaughter house provided that the custom slaughter house is licensed and is subject to sanitary inspection by the state department of agriculture and provided that such meat shall be stamped with the words "not to be sold" in three separate places on each quarter thereof.

Section 2. Effective Date.
This act shall take effect on approval.
Approved February 23, 1957.

AGRICULTURAL DEPARTMENT — MARKETING

CHAPTER 5

S. B. No. 45. (Passed February 6, 1957. In effect May 14, 1957.)

AGRICULTURAL COMMODITIES MARKETING ACT

An Act Amending Sections 5-5-4 and 5-5-5, Utah Code Annotated 1953, Relating to the Utah Agricultural Commodities Marketing Act Regulating Handling of Agricultural Commodities in Interstate Commerce and Providing That Marketing Orders or Amendments Shall not Become Effective Until the Commissioner Determines Such Order Approved and Favored by at Least Two-Thirds of the Producers Voting, and Providing that Marketing Order Board of Control Shall not Exceed Nine Members, Three of Whom Shall be Handlers.

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

Section 1. Sections Amended.
Secs. 5-5-4 and 5-5-5, Utah Code Annotated 1953, are amended to read:

5-5-4. Commissioner to Administer Act — Marketing Orders — Rules for Issuance.

(a) The commissioner of agriculture shall administer and enforce the provisions of this act and the provisions of marketing orders hereunder regulating the handling of agricultural commodities in intrastate commerce.

(b) In order to effectuate the declared policy of this act, the commissioner of agriculture shall have the power, after due notice and opportunity for hearing, to issue marketing orders, in conformance with the provisions of this act, for the purpose of regulating the handling in intrastate commerce of designated agricultural commodities. Due notice shall be construed to mean such notice as, in the judgment of the commissioner, shall give notice to the growers and handlers of the particular agricultural products as to which it is proposed to issue the order, and the opportunity to be heard on their part shall be in such manner as may be determined by the commissioner. In making his determination of whether or not such a marketing order will effectuate the declared policy of this act, the commissioner shall take into consideration any and all facts available to him with respect to the following economic factors:

(1) The quantity and quality of such agricultural commodity available for distribution.

(2) The quantity of such agricultural commodity normally required by consumers.

(3) The cost of producing such agricultural commodity as determined by available statistics and surveys.

(4) The purchasing power of consumers as indicated by reports and indices.

(5) The level of prices of commodities, services and articles which the farmers commonly buy.

(6) The level of prices of other commodities which compete with or are utilized as substitutes for such agricultural commodity.

(c) (1) No marketing order or amendment thereto, issued pursuant to this act, shall become effective unless and until the commissioner determines the issuance of such order is approved and favored by at least two-thirds of the producers voting who, during a representative period, have produced for market the commodities specified therein in commercial quantities within the production area specified in such marketing orders, and by handlers who during such period handled not less than fifty percent of the volume of the commodity covered by the marketing order.

(2) Any order issued pursuant to this section shall become effective in the event that, notwithstanding the refusal or failure of handlers of more than fifty percentum of the volume of the commodity covered by such order which is produced or marketed within the production or marketing area defined in such order to approve a marketing order relating to such commodity on which a hearing has been held, the commissioner of agriculture, with the approval of the governor, determines:

(a) That the refusal or failure to approve a marketing order (upon which a hearing has been held) by the handlers of more than fifty percentum of the volume of the commodity specified therein, which is pro-

duced or marketed within the production or marketing area specified therein tends to prevent the effectuation of the declared policy of this act with respect to such commodity; and

(b) That the issuance of such order is the only practical means of advancing the interests of the producers of such commodity pursuant to the declared policy and is approved or favored by at least two-thirds of the producers voting who, during a representative period determined by the commissioner, have been engaged, within the production area specified in such marketing order, in the production for market of the commodity specified therein.

(c) In finding whether such order is assented to pursuant to the provisions of this act, the commissioner may consider the expression of the board of directors of any nonprofit agricultural cooperative marketing association which is authorized by its articles of incorporation or by a meeting of its members to so express the approval or disapproval of the producers who are members of or stockholder in such nonprofit agricultural marketing association.

5-5-5-. Board of Control—Duties.

(a) Any marketing order issued pursuant to this act shall provide for the establishment of a board of control to administer such order in accordance with its terms and provisions. The members of the board shall be appointed by the commissioner from nominations submitted by the industry and shall hold office until the expiration of term or until such appointment is withdrawn by the commissioner for cause. The number of producers or handlers upon any such board shall be such number of producers or handlers as the commissioner finds is necessary to properly administer such order; *provided* that said board of control shall not exceed nine members; *provided* that not more than three of whom shall be handlers.

(b) No member of any such board shall receive a salary, but each shall be entitled to his actual expenses incurred while engaged in performing his duties herein authorized. The duties of any such board shall be administrative only and may include only the following:

(1) To administer such marketing order in accordance with its terms and provisions.

(2) To recommend to the commissioner administrative rules and regulations relating to the marketing order.

(3) To receive and report to the commissioner complaints or violations of the marketing order.

(4) To recommend to the commissioner amendments to the marketing order.

(5) To appoint such employees as it may deem necessary, and determine the salaries and define the duties of such employees.

(6) To submit to the commissioner for his approval an estimated budget of expense necessary for the operation of any order established by authority of this act, and also submit for approval a method of assessing and collecting such funds as the commissioner may find necessary for the administration of such marketing order.

(7) To assist the commissioner in the collection of such necessary

information and data as the commissioner may deem necessary to the proper administration of this act.

Approved February 15, 1957.

BANKS AND BANKING

CHAPTER 6

S. B. No. 77. (Passed February 27, 1957. In effect May 14, 1957.)

ESCHEAT

An Act Relating to the Disposition of Unclaimed Property; Making Provision for Classifying Such Property as Abandoned and Setting Up Provisions of Law for Handling Such Property so as to Protect the Interests of the Original Owners, Relieve the Holders of Annoyance, Expense and Liability, Preclude Multiple Liability, and Preserve any Windfalls That May Result from Abandonment to the State of Utah; Providing That the Funds Becoming Available to the State Under the Provisions of This Act Shall Be Deposited in the Uniform School Fund; and Repealing Sections 7-2-17, 7-2-18, 7-2-19, 7-2-20, 7-2-21, 7-2-22, 16-9-1, 16-9-2, 16-9-3, 16-9-4, 16-9-5, 16-9-6 and 16-9-7 Utah Code Annotated 1953, Relating to Escheat of Unclaimed Dividends and Assets; and Repealing Sections 78-27-5, 78-27-6, 78-27-7, 78-27-8, 78-27-9, 78-27-10 and 78-27-11 Utah Code Annotated 1953, Relating to Procedure and Appeal in Escheat Matters.

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

Section 1. Definitions.

As used in this act, unless the context otherwise requires:

1. "Banking organization" means any bank, national bank, trust company, savings bank, industrial bank, land bank, or a safe deposit compay engaged in business in this state.

2. "Business association" means any corporation (other than a public corporation), joint stock company, broker, business trust, partnership, or any association for business purposes of two or more individuals.

3. "Financial organization" means any savings and loan association, building and loan association, credit union, cooperative bank or investment company, engaged in business in this state.

4. "Holder" means any person in possession of property subject to this act belonging to another, or who is trustee in case of a trust, or is indebted to another on an obligation subject to this act.

5. "Life insurance corporation" means any association or corporation including mutual benefit, fraternal benefit and cooperative insurance organizations, transacting within this state the business of insurance on the lives of persons or insurance appertaining thereto, including, but not by way of limitation, endowments and annuities.

6. "Owner" means a depositor in case of a deposit, a beneficiary in case of a trust, a creditor, claimant, or payee in case of other choses in

action, or any person having a legal or equitable interest in property subject to this act, or his legal representative.

7. "Person" means any individual, business association, government or political subdivision, public corporation, public authority, estate, trust, two or more persons having a joint or common interest, or any other legal or commercial entity.

8. "Utility" means any person who owns or operates within this state, for public use, any plant, equipment, property, franchise, or license for the transmission of communications or the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas.

Section 2. Property Presumed Abandoned.

The following propery held or owing by a banking or financial organization is presumed abandoned:

1. Any demand, savings, or matured time deposit made in this state with a banking organization, together with any interest or dividend thereon, excluding any changes that may lawfully be withheld, unless the owner has, within twelve years:

(1) Increased or decreased the amount of the deposit, or presented the passbook or other similar evidence of deposit for the crediting of interest; or

(2) Corresponded in writing with the banking organization concerning the deposit; or

(3) Otherwise indicated an interest in the deposit as evidenced by a memorandum on file with the banking organization.

2. Any funds paid in this state towards the purchase of shares or other interest in a financial organization or any deposit made therewith in this state, and any interest or dividends thereon, excluding any charges that may lawfully be withheld, unless the owner has within seven years:

(1) Increased or decreased the amount of the funds or deposit, or presented an appropriate record for the crediting of interest or dividends; or

(2) Corresponded in writing with the financial organization concerning the funds on deposit; or

(3) Otherwise indicated an interest in the funds or deposit as evidenced by a memorandum on file with the financial organization.

3. Any sum payable on checks certified in this state or on written instruments issued in this state on which a banking or financial organization is directly liable, including, by way of illustration but not of limitation, certificates of deposit, drafts, and traveler's checks, that has been outstanding for more than five years from the date it was payable, or from the date of its issuance if payable on demand, unless the owner has within five years corresponded in writing with the banking or financial organization concerning it, or otherwise indicated an interest as evidenced by a memorandum on file with the banking or financial organization.

4. Any funds or other personal property, tangible or intangible, removed from a safe deposit box or any other safekeeping repository or agency or collateral deposit box in this state on which the lease or rental period has expired due to nonpayment of rental charges or other reason, or any surplus amounts arising from the sale thereof pursuant to law,

that have been unclaimed by the owner for more than seven years from the date on which the lease or rental period expired.

Section 3. Unclaimed Funds Presumed Abandoned—Definition.

1. Unclaimed funds, as defined in this section, held and owing by a life insurance corporation shall be presumed abandoned if the last known address, according to the records of the corporation, of the person entitled to the funds is within this state. If a person other than the insured or annuitant is entitled to the funds and no address of such person is known to the corporation or if it is not definite and certain from the records of the corporation what person is entitled to the funds, it is presumed that the last known address of the person entitled to the funds is the same as the last known address of the insured or annuitant according to the records of the corporation.

2. "Unclaimed funds," as used in this section, means all moneys held and owing by any life insurance corporation unclaimed and unpaid for more than seven years after the moneys became due and payable as established from the records of the corporation under any life or endowment insurance policy or annuity contract which has matured or terminated. A life insurance policy not matured by actual proof of the death of the insured is deemed to be matured and the proceeds thereof are deemed to be due and payable if such policy was in force when the insured attained the limiting age under the mortality table on which the reserve is based, unless the person appearing entitled thereto has within the preceding seven years, (1) assigned, readjusted, or paid premiums on the policy, or subjected the policy to loan, or (2) corresponded in writing with the life insurance corporation concerning the policy. Moneys otherwise payable according to the records of the corporation are deemed due and payable although the policy or contract has not been surrendered as required.

Section 4. Funds Held or Owing by Utility — Presumed Abandoned.

The following funds held or owing by any utility are presumed abandoned:

1. Any deposit made by a subscriber with a utility to secure payment for, any sum paid in advance for, utility services to be furnished in this state, less any lawful deductions, that has remained unclaimed by the person appearing on the records of the utility entitled thereto for more than seven years after the termination of the services for which the deposit or advance payment was made.

2. Any sum which a utility has been ordered to refund and which was received for utility services rendered in this state, together with any interest thereon, less any lawful deductions, that has remained unclaimed by the person appearing on the records of the utility entitled thereto for more than seven years after the date it became payable in accordance with the final determination or order providing for the refund.

Section 5. Property Presumed Abandoned—When—Length of Time.

Any stock or other certificate of ownership, or any dividend, profit, distribution, interest, payment on principal, or other sum held or owing

by a business association for or to a shareholder, certificate holder, member, bondholder, or other security holder, or a participating patron of a cooperative, who has not claimed it, or corresponded in writing with the business association concerning it, within seven years after the date prescribed for payment or delivery, is presumed abandoned if:

1. It is held or owing by a business association organized under the laws of or created in this state; or

2. It is held or owing by a business association doing business in this state, but not organized under the laws of or created in this state, and the records of the business association indicate that the last known address of the person entitled thereto is in this state.

3. It is held by a broker or dealer or nominee of such broker or dealer as the holder of record of a security remaining unpaid to the person entitled thereto for seven years following the receipt thereof or any amount received in this state due from a broker or dealer to a customer which has remained unpaid to the customer for seven years after the date of the last entry other than the receipt of dividends of interest in the account of such broker or dealer with such customer.

Section 6. Intangible Personal Property Presumed Abandoned on Dissolution—Two Years.

All intangible personal property distributable in the course of a voluntary dissolution of a business association, banking organization, or financial organization under the laws of or created in this state, that is unclaimed by the owner within two years after the date for final distribution, is presumed abandoned.

Section 7. Intangible Personal Property—Fiduciary Capacity — Presumed Abandoned—Seven Years.

All intangible personal property and any income or increment thereon, held in a fiduciary capacity for the benefit of another person is presumed abandoned unless the owner has, within seven years after it becomes payable or distributable, increased or decreased the principal, accepted payment of principal or income, corresponded in writing concerning the property, or otherwise indicated an interest as evidenced by a memorandum on file with the fiduciary:

1. If the property is held by a banking organization or a financial organization, or by a business association organized under the laws of or created in this state; or

2. If it is held by a business association, doing business in this state, but not organized under the laws of or created in this state, and the records of the business association indicate that the last known address of the person entitled thereto is in this state; or

3. If it is held in this state by any other person.

Section 8. Intangible Personal Property Held by Court — Presumed Abandoned—Seven Years.

All intangible personal property held for the owner by any court, including federal courts within this state, public corporation, public authority, or public officer of this state, or a political subdivision thereof, that has remained unclaimed by the owner for more than seven years is presumed abandoned.

Section 9. Intangible Personal Property Held or Owed by State — Presumed Abandoned—Seven Years.

All intangible personal property, not otherwise covered by this act, including any income or increment thereon and deducting any lawful charges, that is held or owing in this state in the ordinary course of the holder's business and has remained unclaimed by the owner for more than seven years after it became payable or distributable is presumed abandoned.

Section 10. Other Property Presumed Abandoned—Seven Years.

If specific property which is subject to the provisions of sections 2, 5, 6, 7 and 9 is held for or owed or distributable to an owner whose last known address is in another state by a holder who is subject to the jurisdiction of that state, the specific property is not presumed abandoned in this state and subject to this act if:

1. It may be claimed as abandoned or escheated under the laws of such other state; and

2. The laws of such other state make reciprocal provision that similar specific property is not presumed abandoned or escheatable by such other state when held for or owed or distributable to an owner whose last known address is within this state by a holder who is subject to the jurisdiction of this state.

Section 11. Property Presumed Abandoned—Report to State Treasurer.

Every person holding funds or other property, tangible or intangible, presumed abandoned under this act shall report to the state treasurer with respect to the property as hereinafter provided.

2. The report shall be verified and shall include:

(1) The name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any property of the value of $3.00 or more presumed abandoned under this act;

(2) In case of unclaimed funds of life insurance corporations, the full name of the insured or annuitant and his last known address according to the life insurance corporation's records;

(3) The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, except that items of value under $3.00 each may be reported in aggregate;

(4) The date when the property became payable, demandable, or returnable, and the date of the last transaction with the owner with respect to the property; and

(5) Other information which the state treasurer prescribes by rule as necessary for the administration of this act.

3. If a person holding property presumed abandoned is a successor to other persons who previously held the property for the owner, or if the holder has changed his name while holding the property, he shall file with his report all prior known names and addresses of each holder of the property.

4. The report shall be filed before November 1 of each year as of June 30 next preceding, but the report of life insurance corporations

shall be filed before March 1 of each year as of December 31 next preceding. The state treasurer may postpone the reporting date upon written request by any person required to file a report.

5. If the holder of property presumed abandoned under this act knows the whereabouts of the owner and if the owner's claim has not been barred by the statute of limitations, the holder shall, before filing the annual report, communicate with the owner and take necessary steps to prevent abandonment from being presumed. The holder shall exercise due diligence to ascertain the whereabouts of the owner, which may be accomplished by writing a letter of inquiry to the owner at his last known address.

6. Verification, if made by a partnership, shall be executed by a partner; if made by an unincorporated association or private corporation, by an officer; and if made by a public corporation, by its chief fiscal officer.

7. The initial report filed under this act shall include all items of property that would have been presumed abandoned if this act had been in effect during the twenty-year period preceding January 1, 1957, and shall include all items of property possessed or liquidated by any process whatsoever by a holder or possessed by any person other than the original owner by the authority of the holder during such twenty-year period.

Section 12. Notice to be Given by State Treasurer—Publication — Abandoned Property.

1. Within 120 days from the filing of the report required by section 11, the state treasurer shall cause notice to be published at least once each week for two successive weeks in an English language newspaper of general circulation in the county in this state in which is located the last known address of any person to be named in the notice. If no address is listed or if the address is outside this state, the notice shall be published in the county in which the holder of the abandoned property has his principal place of business within this state.

2. The published notice shall be entitled "Notice of Names of Persons Appearing to be Owners of Abandoned Property," and shall contain:

(1) The names in alphabetical order and last known addresses, if any, of persons listed in the report and entitled to notice within the county as hereinbefore specified.

(2) A statement that information concerning the amount or description of the property and the name and address of the holder may be obtained by any persons possessing an interest in the property by addressing an inquiry to the state treasurer.

(3) A statement that if proof of claim is not presented by the owner to the holder and if the owner's right to receive the property is not established to the holder's satisfaction within sixty-five days from the date of the second published notice, the abandoned property will be placed not later than eight-five days after such publication date in the custody of the state treasurer to whom all further claims must thereafter be directed.

3. The state treasurer is not required to publish in such notice any item of less than $25.00 unless he deems such publication to be in the public interest.

4. Within 120 days from the receipt of the report required by sec-

tion 11, the state treasurer shall mail a notice to each person having an address listed therein who appears to be entitled to property of the value of $25.00 or more presumed abandoned under this act.

5. The mailed notice shall contain:

(1) A statement that, according to a report filed with the state treasurer, property is being held to which the addressee appears entitled.

(2) The name and address of the person holding the property and any necessary information regarding changes of name and address of the holder.

(3) A statement that, if satisfactory proof of claim is not presented by the owner to the holder by the date specified in the published notice, the property will be placed in the custody of the state treasurer to whom all further claims must be directed.

Section 13. Delivery to State of Abandoned Property.

Every person who has filed a report as provided by Section 11 shall within twenty days after the time specified in Section 12 for claiming the property from the holder pay or deliver to the state treasurer all abandoned property specified in the report, except that, if the owner establishes his right to receive the abandoned property to the satisfaction of the holder within the time specified in Section 12, or if it appears that for some other reason the presumption of abandonment is erroneous, the holder need not pay or deliver the property, which will no longer be presumed abandoned, to the state treasurer, but in lieu thereof shall file a verified written explanation of the proof of claim or of the error in the presumption of abandonment.

Section 14. Custody and Responsibility of State Upon Delivery of Abandoned Property.

Upon the payment or delivery of property to the state treasurer, the state shall assume custody and shall be responsible for the safe keeping thereof. The payment of money or the delivery of property to the state treasurer by any holder shall terminate any legal relationship between the holder and the owner and shall release and discharge such holder from any and all liability to the owner, his heirs or assigns by reason of such delivery or payment, and such delivery and payment may be pleaded as a bar to recovery and be a conclusive defense in any suit or action brought by such owner, his heirs or assigns or any claimant against the holder by reason of such delivery. The state shall reimburse any holder who cannot be relieved of such liability by this section for all liability to the owner, his heirs and assigns incurred by reason of compliance with the act, but nothing contained in this section shall be deemed or construed as an assumption by the state or the state treasurer of any liability of the holder to the owner upon a cause of action arising prior to said delivery, nor as depriving such owner, his heirs or assigns of the right of redemption provided for in this act.

Section 15. Property Delivered to State — Owner Not Entitled to Increment.

When property is paid or delivered to the state treasurer under this act, the owner is not entitled to receive from the holder or from the state income or other increments accruing thereafter. No owner of abandoned property shall be entitled to receive interest on account of such aban-

doned property from and after the date a report of such abandoned property is made to the state treasurer pursuant to this act whether or not he was entitled to interest on such property prior to such date. No claimant to abandoned property paid to the state treasurer shall be entitled to receive interest on account of such property whether or not he was entitled to interest on such property prior to such payment.

Section 16. Abandoned Property—Disposition—Public Sale.

1. All abandoned property other than money delivered to the State treasurer under this act shall within one year after the delivery be sold by him to the highest bidder at public sale in whatever city in the state affords in his judgment the most favorable market for the property involved. The state treasurer may decline the highest bid and reoffer the property for sale if he considers the price bid insufficient. He need not offer any property for sale if, in his opinion, the probable cost of sale exceeds the value of the property.

2. Any sale held under this section shall be preceded by a single publication of notice thereof, at least thirty days in advance of sale in an English language newspaper of general circulation in the county where the property is to be sold.

3. The purchaser at any sale conducted by the state treasurer pursuant to this act shall receive title to the property purchased, free from all claims of the owner or prior holder thereof and of all persons claiming through or under them. The state treasurer shall execute all documents necessary to complete the transfer of title.

Section 17. Proceeds of Sale of Abandoned Property—Disposition.

1. All funds received under this act, including the proceeds from the sale of abandoned property under section 16, shall forthwith be deposited by the state treasurer in the uniform school fund of the state, except that the state treasurer shall maintain in a separate trust fund an amount not exceeding $50,000 from which he shall make prompt payment of claims duly allowed by him as hereinafter provided. Before making the deposit he shall record the name and last known address of each person appearing from the holders' reports to be entitled to the abandoned property and of the name and last known address of each insured person or annuitant, and with respect to each policy or contract listed in the report of a life insurance corporation, its number, the name of the corporation, and the amount due. The record shall be available for public inspection at all reasonable business hours.

2. Before making any deposit to the credit of the uniform school fund, the state treasurer may deduct: (1) any costs in connection with sale of abandoned property, (2) any costs of mailing and publication in connection with any abandoned property, and (3) reasonable service charges.

Section 18. Persons Claiming Interest—Filing of Claims.

Any person claiming an interest in any property delivered to the state under this act may file a claim thereto or to the proceeds from the sale thereof on the form prescribed by the state treasurer. No statute of limitations shall bar the filing of a claim.

Section 19. State Treasurer to Consider Claims — Take Evidence — Determine Claims.

1. The state treasurer shall consider any claim filed under this act and may hold a hearing and receive evidence concerning it. If a hearing is held, he shall prepare a finding and a decision in writing on each claim filed, stating the substance of any evidence heard by him and the reasons for his decision. The decision shall be a public record.

2. If the claim is allowed, the state treasurer shall make payment forthwith. The claim shall be paid without deduction for costs of notices or sale or for service charges.

Section 20. Persons Aggrieved — Action in District Court.

Any person aggrieved by a decision of the state treasurer or as to whose claim the state treasurer has failed to act within ninety days after the filing of the claim, may commence an action in the district court to establish his claim. The proceeding shall be brought within ninety days after the decision of the state treasurer or within 180 days from the filing of the claim if the state treasurer fails to act. The action shall be tried de novo without a jury.

Section 21. Discretion of State Treasurer to Decline to Take Property of Lesser Value than Cost of Notice and Sale.

The state treasurer, after receiving reports of property deemed abandoned pursuant to this act, may decline to receive any property reported which he deems to have a value of less than the cost of giving notice and holding sale, or he may, if he deems it desirable because of the small sum involved, postpone taking possession until a sufficient sum accumulates. Unless the holder of the property is notified to the contrary within 120 days after filing the report required under section 11, the state treasurer shall be deemed to have elected to receive the custody of the property.

Section 22. Examination of Records by State Treasurer.

The state treasurer may at reasonable times and upon reasonable notice examine the records of any person if he has reason to believe that such person has failed to report property that should have been reported pursuant to this act.

Section 23. Refusal to Deliver Property — Action by State Treasurer

If any person refuses to deliver property to the state treasurer as required under this act, he shall bring an action in a court of appropriate jurisdiction to enforce such delivery.

Section 24. Violation — Penalty.

1. Any person who wilfully fails to render any report or perform other duties required under this act, shall be punished by a fine of $100 for each day such report is withheld, but not more than $5,000.

2. Any person who wilfully refuses to pay or deliver abandoned property to the state treasurer as required under this act shall be punished by a fine equal to one-half of the value of the abandoned property, the delivery of which has been refused, or by a fine of $200, whichever is greater, or by imprisonment for not more than twenty-four months, or both, in the discretion of the court.

Section 25. Promulgation of Rules and Regulations.

The state treasurer is hereby authorized to make necessary rules and regulations to carry out provisions of this act which shall include reasonable regulations governing charges for services or assessments for any purpose whatsoever made by any person since January 1, 1937, against the properties of an owner whose property would be presumed to be abandoned under the provisions of this act, *provided however,* no such charges shall be allowed which are in excess of similar charges made against other owners for like services or in excess of charges which might properly be approved by judicial determination.

Section 26. Property to Which Act Does Not Apply.

This act shall not apply to any property that has been presumed abandoned or escheated under the laws of another state prior to the effective date of this act.

Section 27. Constitutionality.

If any provision of this act or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 28. Uniformity of Act and Construction.

This act shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

Section 29. Title of Act.

This act may be cited as the Uniform Disposition of Unclaimed Property Act.

Section 30. Sections Repealed.

Sections 7-2-17, 7-2-18, 7-2-19, 7-2-20, 7-2-21, 7-2-22, 16-9-1, 16-9-2, 16-9-3, 16-9-4, 16-9-5, 16-9-6, 16-9-7, 78-27-5, 78-27-6, 78-27-7, 78-27-8, 78-27-9, 78-27-10 and 78-27-11, Utah Code Annotated 1953 are repealed.

Approved. March 7, 1957.

CHAPTER 7

S. B. No. 218. (Passed February 28, 1957. In effect May 14, 1957.)

COMMERCIAL AND SAVINGS BANKS — BRANCH BANKS

An Act Amending Section 73-3-6, Utah Code Annotated 1953, as Amended by Chapter 8, Laws of Utah, 1953, Relating to Commercial and Savings Banks and Banking to Provide that the Bank Commissioner and the Governor May Grant Permission to Establish Branch Banks Without Conducting a Public Hearing.

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

Section 1. Section Amended.

Section 7-3-6, Utah Code Annotated 1953, as amended by Chapter 8, Laws of Utah 1953, is amended to read as follows:

7–3–6. Business Conducted at Banking House—Branching of Office—Violation of Section a Misdemeanor.

The business of every bank shall be conducted only at its banking house and every bank shall receive deposits and pay checks only at its banking house except as hereinafter provided.

With the consent of the bank commissioner and the approval of the governor, any bank having a paid-in capital and surplus of not less than $60,000 may establish and operate one branch for the transaction of its business; *provided*, that each additional branch established there shall be paid in an additional $60,000 (capital and surplus).

All banking houses and branches shall be located either within the corporate limits of a city or town, or within unincorporated areas of a county in which a city of the first class is located.

Except in cities of the first class, or within unincorporated areas of a county in which a city of the first class is located, no branch bank shall be established in any city or town in which is located a bank or banks, state or national, regularly transacting a customary banking business, unless the bank seeking to establish such branch shall take over an existing bank. No unit bank organized and operating at a point where there are other operating banks, state or national, shall be permitted to be acquired by another bank for the purpose of establishing a branch until such bank shall have been in operation as such for a period of five years.

A separate application must be filed for each branch location desired and the fee for filing such application shall be the sum of $50 to be paid at the time of filing and such fee shall be paid regardless of whether the application is granted or refused.

The term "branch" as used in this act shall be held to include any branch bank, branch office, branch agency, additional office, or any branch place of business at which deposits are received or checks paid or money lent.

Any bank desiring to establish one or more branches or offices shall file a written application therefor in such form and containing such information as the bank commissioner may require. No bank shall be permitted to establish any branch or office until it shall first have been shown to the satisfaction of the bank commissioner and the governor that the public convenience and advantage will be subserved and promoted by the establishment of such branch or office and the bank commissioner may by order permitting the establishment of such branch or office designate and limit the character of work and service which may therein be performed.

No branch shall be established at a location outside the corporate limits of a city or town in such close proximity to an established bank or branch as to unreasonably interfere with the business thereof.

Any corporation or officer thereof violating any of the provisions of this section is guilty of a misdemeanor.

Approved March 7, 1957.

CHAPTER 8

H. B. No. 34. (Passed February 14, 1957. In effect May 14, 1957.)

COMMERCIAL AND SAVINGS BANKS—CAPITAL STOCK

An Act Amending Section 7-3-17, Utah Code Annotated 1953, Relating to Increasing the Capital Stock of Banks and Providing the Information to be Furnished the Secretary of State Where Additional Stock is to be Issued Pursuant to a Transfer from Surplus to Capital Account.

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

Section 1. Section Amended.
Section 7-3-17, Utah Code Annotated 1953, is amended to read:

7–3–17. Increasing Capital Stock.
The secretary of state shall not issue a certificate of amendment to the articles of incorporation of any bank increasing the capital stock thereof until it shall be made to appear to him by affidavit of the president or a vice president and the secretary or cashier of such bank that that least twenty-five per cent of the increased capital stock has actually been paid in cash, or unless it is so made to appear to him that such additional stock is to be issued pursuant to a transfer from surplus to capital account of an amount equal to the par value of such increased capital stock.

Approved February 25, 1957.

CHAPTER 9

S. B. No. 67 (Passed March 11, 1957. In effect May 14, 1957.)

COMMERCIAL AND SAVINGS BANKS—DIRECTORS MEETINGS

An Act Amending Section 7-3-20, Utah Code Annotated 1953, Relating to Directors' Meetings and Prescribing the Procedure to be Followed.

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

Section 1. Section Amended.
Section 7-3-20, Utah Code Annotated 1953, is amended to read:

7–3–20. Directors' Meetings—Reports.
The board of directors of every bank shall hold at least one regular meeting every calendar month. The board shall designate any officer or officers of the bank to prepare and submit to the board at every such meeting a report in such detail as the board may direct, of the loans and investments made during the preceding month or since the last report, also the aggregate of the then existing liability, direct or contingent, to the bank of every officer and director thereof. The board of directors shall pass upon such report and make the same a part of the record of such meeting, and such record shall show its approval or disapproval of the same.

Approved March 15, 1957.

CHAPTER 10

S. B. No. 9. (Passed February 6, 1957. In effect May 14, 1957.)

COMMERCIAL AND SAVINGS BANKS—REAL ESTATE

An Act Amending Section 7-3-30, Utah Code Annotated 1953, Relating to the Right of Banks to Hold and Convey Real Estate and Specifying the Amount of Its Paid-Up Capital and Surplus Which May Be Invested in Banking Offices and Other Premises in the Same Building.

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

Section 1. Section Amended.

Section 7-3-30, Utah Code Annotated 1953, is amended to read:

7–3–30. Real Estate—Right of Banks to Hold and Convey.

Any bank may purchase, hold and convey real estate for the following purposes and no other:

(1) Such real estate as shall be necessary in which to transact the business of any such bank, including its banking offices and other premises in the same buildings to rent as a source of income, but which shall not without the approval of the state bank commissioner exceed in cost to such bank an amount equal to its paid-in capital or an amount equal to fifty per cent of its paid-in capital and surplus, whichever is the larger, except that whenever any such bank shall cease to use such real estate and improvements thereon for its principal place of business or for banking purposes, it shall, within seven years from the date of vacation of such premises, sell the same or cease to carry it as an asset.

(2) Such real estate as shall be purchased by or conveyed to such bank in satisfaction of or on account of debts previously contracted in the course of its business.

(3) All real estate that shall have been acquired by any such bank under subdivision (2) of this section prior to July 1, 1933, and all real estate that shall hereafter be acquired by any such bank under said subdivision (2) shall be sold within two years after July 1, 1933, if acquired prior thereto, and within two years after the date when acquired, if acquired hereafter; provided, any such real estate not sold within the said two-year period shall be charged off the books of such bank at the rate of twenty per cent of the value thereof each year commencing one year from the date of expiration of said two-year period, and the same shall be entirely charged off within five years from the expiration of the said two-year period; *provided, further,* that the state bank commissioner, by and with the consent of the governor, may by order extend the time within which any real estate so acquired shall be disposed of to a time not exceeding ten years from the date of its acquisition.

Any bank hereafter acquiring any real estate in any manner other than provided in this section shall immediately upon receiving notice from the bank commissioner charge the same to profit and loss; and when such loss impairs the capital of such bank such impairment shall be made good in the manner provided by law. This section shall not apply to real estate purchased with funds other than the capital and resources of such banking business, nor to real estate held in trust.

Approved February 15, 1957.

CHAPTER 11

S. B. No. 26. (Passed January 30, 1957. In effect May 14, 1957.)

COMMERCIAL AND SAVINGS BANKS—STOCK IN OTHER CORPORATIONS

An Act Amending Section 7-3-32, Utah Code Annotated, 1953, Relating to the Right of Banks to Purchase, Own, Sell and Dispose of Stock in Other Banks and Corporations and Authorizing Investments in the Stock of the Federal National Mortgage Association.

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

Section 1. Section Amended.
Section 7-3-32, Utah Code Annotated 1953, is amended to read:

7–3–32. Stock in Other Banks and Corporations. Right of Banks to Purchase, Own, Sell, or Dispose of.
Any bank may purchase, own and hold, and sell or otherwise dispose of, any of the shares of the capital stock of the federal deposit insurance corporation, the federal reserve bank of the twelfth federal reserve district, the stock of any corporation or corporations organized under the laws of the United States for purposes similar to those of the federal reserve banks or the federal deposit insurance corporation, the federal national mortgage association, the stock of any safe deposit company, the stock of any corporation owning the banking house in which any place of business of such bank is located, and the stock of such other corporation as shall be acquired by such bank in satisfaction of or on account of debts previously contracted in the course of its business.

Approved February 6, 1957.

CEMETERIES

CHAPTER 12

H. B. No. 61. (Passed March 1, 1957. In effect May 14, 1957.)

CEMETERY DISTRICTS—ORGANIZATION AND MAINTENANCE

An Act Amending Sections 8-1-6, 8-1-7, 8-1-12 and 8-1-20, Utah Code Annotated 1953, Relating to the Creation, Organization and Maintenance of Cemetery Districts and Providing for the Levying of Taxes by the Cemetery Boards Thereof.

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

Section 1. Sections Amended.
Sections 8-1-6, 8-1-7, 8-1-12 and 8-1-20, Utah Code Annotated, 1953, are amended to read:

8–1–6. Conduct of Election—Ballots — Precincts — Elector's Oath — Judges.
Such election shall be conducted as nearly as practicable in accordance with the general laws of the state except that the provisions of the

election laws as to the form and distribution of ballots shall not apply, no previous registration shall be necessary, and qualified electors shall be residents of said district who shall have paid a property tax in such district in the year next preceding the election. The board of county commissioners shall establish as many election precincts within such proposed cemetery maintenance district as will be convenient. There shall be added to the usual elector's oath in case of challenge the following words: "and I am a resident within the boundaries of the proposed cemetery maintenance district and have paid a property tax on realty in such district within the past year." Said board of county commissioners shall also appoint three judges of election for each such election precinct who shall perform the same duties as near as may be as judges of election under the general laws of the state and the result of such election shall be certified and canvassed and declared by the board of county commissioners.

8–1–7. Election Returns — County Commissioners to Canvass — Majority — Curing Defects in Organization.

Immediately after any election for voting upon the organization of a cemetery maintenance district, the judges of said election shall forward the official results of said election to the clerk of said board of commissioners. The said board of commissioners shall meet within ten days after said returns are received and shall proceed to canvass the votes cast at such election and if upon canvass it shall appear that less than a majority of those voting at such election or that less than one-third of all the qualified voters in said district who shall have paid a property tax in such district in the year next preceding the election, have voted "cemetery maintenance district, yes," then, in either event, a record of that fact shall be duly entered upon the minutes of said board, and all proceedings in regard to the organization of said district shall be void. If it shall appear upon such canvass, that a majority of those voting have voted "cemetery maintenance district, yes" and that included in said majority of votes more than one-third of all the qualified voters in said district who shall have paid a property tax in such district in the year next preceding the election have voted "cemetery maintenance district, yes," the said board shall by order entered on its minutes declare such territory duly organized as a cemetery maintenance district under the name designated in the petition. After the election the validity of the proceedings hereunder shall not be affected by any defect in the petition or in the number or qualifications of the signers thereof and in no event shall any action be commenced or maintained or defense made affecting the validity of such organization after six months from and after the making and entering of the order provided for in this section. Such board shall cause one copy of such order, duly certified, to be filed for record in the office of the county recorder of the county in which said district is situated and shall transmit to the governor one certified copy thereof.

8–1–12. Annexation of Additional Territory Within Adjoining County.

After the organization of a cemetery maintenance district additional territory adjoining such district and contiguous thereto, and located wholly within an adjoining county may be added to such district and

become a part thereof as hereinafter provided. The proceedings for such annexation shall be the same as the proceedings for the creation and organization of a cemetery maintenance district with the following exceptions and modifications:

(1) Such proceeding may be initiated by ten or more of the holders of title or evidence of title to contiguous lands aggregating not less than 2000 acres or of less area but having an assessed valuation of at least $100,000.

(2) A petition such as is required by section 8-1-3 shall be filed with the board of county commissioners of the county in which is situated the territory proposed to be annexed but shall accurately describe the boundaries of such territory and also name and describe the cemetery maintenance district to which annexation is sought and shall be accompanied by a map showing and distinguishing the boundaries of the original district and the boundaries of the territory proposed to be annexed and showing the location of the intervening county line. Such petition must be accompanied by a certified copy of a resolution of the board of cemetery maintenance commissioners of the original district consenting to such annexation.

(3) The notice of hearing on such petition shall state that certain territory therein described is proposed to be annexed to a cemetery maintenance district therein named and that any taxpayer within the boundaries of the territory proposed to be annexed may offer objections thereto at the time and place therein specified. The order entered by the local board of county commissioners on such petition shall if such petition be granted fix the boundaries of such annexed territory and direct that a map thereof be prepared under the direction of the clerk of the board of county commissioners of the county in which the original cemetery maintenance district is situated.

(4) An election shall be held in the territory proposed to be annexed and shall state the name of the district to which annexation is sought and that a map showing the boundaries of such district and of the territory proposed to be annexed is on file in the office of the clerk of the local board of county commissioners. Such notice shall prescribe the form of ballot to be cast which shall contain the words "In favor of annexation to . . . Cemetery Maintenance District" and "Against annexation to . . . Cemetery Maintenance District."

(5) The territory proposed to be annexed shall constitute one election and shall direct that the voter indicate his choice thereon by a cross (X).

(6) The territory proposed to be annexed shall constitute one election precinct and there shall be added to the usual elector's oath in case of challenge, the following words: "and I am a resident within the boundaries of the territory proposed to be annexed to . . . Cemetery Maintenance District." The returns of such election shall be canvassed by the board of the county commissioners of the county in which the territory proposed to be annexed is situated and if it shall appear from such canvass that more than one-half the votes cast by the qualified voters in said district who shall have paid a property tax in such district in the year next preceding the election are in favor of such annexation such board shall by order entered on its minutes declare such territory a part

of the cemetery maintenance district to which annexation is sought and a certified copy of such order shall be transmitted to the cemetery maintenance board of the original district and also to the board of the county commissioners of the county in which such original district is situated. A certified copy of such order shall also be filed in the office of the county recorder of the county in which the territory proposed to be annexed is situated. Prior to the next district election following such annexation the cemetery maintenance board shall divide the district into two subdistricts each of which shall comprise all territory of the district situated within the boundaries of one county and thereafter the commissioners of such district shall be elected at large; *provided,* that not more than two members of the cemetery maintenance board shall be residents of the same county; *provided, further,* that the commissioner whose term of office first expires after such annexation shall be elected by the voters of the entire district from among the qualified electors of such annexed territory. Certified copies of appointments of secretary and treasurer of the district shall be filed with the clerk of the board of county commissioners and with the tax collector of each county in which any portion of the district is situated and all taxes levied by the district shall be certified to and extended, collected and remitted by the proper officers of the county in which is situated the property subject to such levy.

8–1–20. Meeting of Board—Amount and Rate of Tax—Collection.

At the last regular meeting of the cemetery maintenance board prior to the third Monday of September in each year the cemetery board of each cemetery maintenance district may levy for cemetery purposes a property tax in each cemetery maintenance district of not more than twenty cents on each $100 in assessed value of taxable property within the cemetery maintenance district. Upon the levy being made by the cemetery maintenance board under this section it shall be the duty of the secretary of the district to transmit to the county auditor or clerk as the case may be a certified copy of the resolution providing for such levy immediately after the passage of the same. Said taxes shall be collected as provided by chapter 10, Title 59, Utah Code Annotated 1953.

Approved March 7, 1957.

CITIES AND TOWNS

CHAPTER 13

H. B. No. 85. (Passed February 14, 1957. In effect May 14, 1957.)

CLASSIFICATION

An Act Amending Section 10-1-1 and 10-1-2, Utah Code Annotated 1953, Relating to the Classification of Cities and Towns and Providing for a New Standard of Classification for Cities of the Third Class.

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

Section 1. Sections Amended.

Sections 10-1-1 and 10-1-2, Utah Code Annotated 1953, are amended to read:

10–1–1. Classification of Cities by Population—First—Second—Third —Towns.

The municipal corporations referred to in this title now existing or hereafter organized, shall be divided into cities of the first class, cities of the second class, cities of the third class and towns. Those cities having ninety thousand or more inhabitants shall be cities of the first class, those cities having thirty thousand and less than ninety thousand inhabitants shall be cities of the second class and those cities having eight hundred and less than thirty thousand inhabitants shall be cities of the third class, and all incorporated communities of less than eight hundred inhabitants shall be classed as towns; *provided,* that this section shall not effect to lower the class of any city now existing.

10–1–2. Change of Class.

Whenever any city of the second class shall have attained the population of 90,000 or more, or any city of the third class shall have attained a population of 30,000 or more, or any town shall have obtained the population of 800 or more, as ascertained and determined by a national or state census, it shall be the duty of the mayor or president of the board of trustees to certify such fact to the governor. Upon receipt of such certificate the governor may declare by public proclamation such city or town to be a city of the first, second, or third class, as the case may be, and such city or town thus changed will be governed by the provisions of this title applicable to cities of the class to which such city or town has been changed.

Approved February 27, 1957.

CHAPTER 14

S. B. No. 43. (Passed February 20, 1957. In effect May 14, 1957.)

EXTENSION OF CORPORATE LIMITS

An Act Amending Section 10-3-1, Utah Code Annotated 1953, Relating to the Extension of the Corporate Limits of Cities and Towns and Providing That the Petition for the Extension of the Limits of a City or Town Shall Be Signed by a Majority of the Real Property Owners and by the Owners of Not Less than One-Third in Value of the Real Property in the Territory Sought to be Annexed.

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

Section 1. Section Amended.

Sec. 10-3-1, Utah Code Annotated, 1953, is amended to read:

10–3–1. Annexation of Contiguous Territory—Requirements.

Whenever a majority of the owners of real property and the owners of not less than one-third in value of the real property, as shown by the last assessment rolls, in territory lying contiguous to the corporate limits of any city or town shall desire to annex such territory to such city or town, they shall cause an accurate plat or map of such territory to be made under the supervision of the city engineer or of a competent

surveyor, and a copy of said plat or map, certified by said engineer or surveyor as the case may be, shall be filed in the office of the recorder or town clerk of the city or town, together with a petition in writing, signed by a majority of the real property owners and by the owners of not less than one-third in value of the real property, as shown by the last assessment rolls, of the territory described in said plat; and the board of city commissioners or the city council, or board of trustees, at the next regular meeting thereof shall vote upon the question of such annexation. If two-thirds of all the members of the board of city commissioners or the city council, or board of trustees, vote for such annexation, an ordinance shall be passed, declaring the annexation of such territory and the extension of the limits of such city or town accordingly. A copy of the map or plat duly certified shall at once be filed in the office of the county recorder, together with a certified copy of the ordinance declaring such annexation, and thereupon such annexation shall be deemed complete, and the said territory shall be deemed and held to be a part of said city or town, and the inhabitants thereof shall thereafter enjoy the privileges of such annexation and be subject to the ordinances and regulations of said city or town.

Approved March 7, 1957.

CHAPTER 15

H. B. No. 4. (Passed February 15, 1957. In effect May 14, 1957.)

CONSOLIDATION OF MUNICIPAL CORPORATIONS

An Act Permitting Municipal Corporations to Consolidate Into One Municipal Corporation and Thereby to Dissolve the Original Municipal Corporations; Authorizing Inhabitants or Governing Boards of Such Municipal Corporations to Petition to Consolidate; Providing the Method for Completing the Consolidation Including an Election by the Inhabitants After Notice; Providing for the Disposal of the Assets and Liabilities of the Original Municipal Corporations and for the Payment of Existing Debts Including Permitting Original Corporations to Enter Into Agreements for a Limited Time Pertaining to Limited Areas of the Consolidated Municipality; and Providing for Ordinances and Other Orders of the Original Municipal Corporation To Remain Effective Until the New Government Can Make Uniform the Laws for the New Municipal Corporation; and a Savings Clause.

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

Section 1. Consolidation of Municipalities—Petition—Contents—Notice When the inhabitants of two or more contiguous incorporated areas desire to consolidate their respective municipal governments and area into one municipal corporation, the board of city commissioners, or the mayor and city council, or the board of trustees, or any other legislative and governing body, or not less than ten percent in numbers of the real property taxpayers who are qualified electors, in each one of the contiguous municipal corporations proposed to be consolidated, may apply therefor to the board of county commissioners of each county in which any

part of the territory proposed to be consolidated may be situated, by a signed petition naming each and all of the contiguous incorporated areas proposed to be consolidated, and stating the name proposed for such consolidated municipal corporation, and it shall be accompanied by satisfactory proof of the number of inhabitants within the territory proposed to be consolidated. All actions by governing bodies of municipalities under this act must be authorized by a resolution of such body.

The petition when made by a municipality's governing body shall contain an agreement executed by the mayor and recorder or clerk and approved by the governing body of each such municipal corporation with respect to every waterworks plant or system, sewer, gas, electric or other system, transportation line or other facility or public utility or any public building or park for the acquisition of all or any part of which any obligations payable from the revenues thereof or from taxes have been issued and are still outstanding at the time of the proposed consolidation. When the petition is signed by ten percent in numbers of the real property taxpayers, who are electors, the governing body and officers of the municipality shall within fifteen days execute the above mentioned agreement. The effectiveness of the agreement shall be conditioned upon the effectiveness of the proposed consolidation. The agreement generally shall deal with the nature of the obligations, responsibilities and duties assumed by the new municipal corporation and the rights acquired by it. The agreement shall be subordinate in all respects to the contract rights of all holders of any bonds or other obligations of the original municipal corporations outstanding at the time of consolidation. The agreement must be filed with the board of county commissioners of each county involved, and made available for public inspection.

Said agreement shall extend for a period of not more than twenty years, except that those provisions necessary for the protection of the holders of any bonds or other obligations of any municipal corporation being consolidated shall extend for such longer time as may be necessary fully to achieve such protection . After the expiration of such agreement the rights, duties and obligations covered thereby shall be governed by the general law.

The notice required in Section 2 hereof shall contain a general statement of the subject matter of said agreement and shall provide that a hearing thereon shall be held at a time and place specified. At the time and place mentioned in the notice, not less than five days after the first publication thereof, but before the election on consolidation, the governing bodies of the municipal corporations involved, acting jointly, shall meet in open and public session and any person in interest may be heard with respect to any portion of said agreement. One or more certified copies of said agreement shall be available to the public at the office of the clerk or recorder of each municipality at least five days prior to said hearing and the aforementioned notice shall so specify. After the hearing, the governing bodies acting jointly, may make such changes therein as seem desirable as a result of said hearing.

Section 2. Duties of Commissioners When Petition Presented — Publication.

When such petition shall be presented, the board of county commissioners or when the territory involved lies in more than one county each

and all of the boards of county commissioners acting jointly, shall forthwith designate the class of the proposed municipal corporation, and in cities of the first and second class designate the boundaries of the municipal wards thereof, and shall fix the time and place within the boundaries of such proposed consolidated municipal corporation at which the election may be held to determine the matter. There shall be at least one polling place within each municipality involved. Such election shall be held and conducted as nearly as may be in the same manner as provided by law for conducting general elections. Before such election is held the board of county commissioners, or each board of county commissioners in its own county, shall give notice by publication in some newspaper published within the limits of each municipal corporation proposed to be consolidated, if there be one, at least once a week for four successive weeks but if there be no newspaper published therein, then by posting notices for at least four weeks in five public places within said limits. Such notices shall contain a statement of the contents of the petition which shall include naming each municipal area to be included in the proposed consolidation, and generally describe the terms of the consolidation agreement and the manner of obtaining a complete true copy of the same, and shall also designate the time and place at which the election shall be held. The ballots used at such elections shall contain: "For Consolidation and Approval of the Agreement" "Against Consolidation and Against Approval of the Agreement."

Section 3. Majority Approval—Publication of Vote Result—Filing with Secretary of State.

If a majority of the ballots cast at such election in each municipal entity are for the consolidation and approval of the agreement, the county clerk or county clerks when more than one county is involved, shall immediately, on the result of the canvass of the returns of said election being filed in the proper office, give notice of the result by publication in the same manner and for the same time as provided in the preceding section; and in such notice he shall designate to which of the classes of municipal corporations such city so consolidated shall belong. A copy of the notice with proper proof of its publication shall be filed with the papers, and a certified copy of all papers and record entries relating to the matter on file in the clerk's office shall be filed in the office of each county recorder for each county having territory contained in the new municipal corporation, and in the office of the secretary of state. Upon the filing of said papers it shall be the duty of the secretary of state to make publication in some newspaper having general circulation within the state, giving notice of the incorporation of the new city and the disincorporation by consolidation of each and all of the municipal corporations included in the new city.

Section 4. Canvass to Be Made by County Commissioners.

The canvass and returns of the votes cast at such election shall be made by the county commissioners as provided by law.

Section 5. Publication and Filing of Notices—Effect.

Upon publication and filing of the notices mentioned in Section 3, the incorporation of such city shall be complete and the original municipal corporations in the consolidation shall have been disincorporated.

Section 6. New Municipal Corporation Deemed Continuation of Former Municipal Corporations.

The resultant new municipal corporation formed by the consolidation shall be deemed to be a continuation of the individual merged municipal corporations, except as herein expressly provided, and shall forthwith own all of the assets, property, records, seals, equipment, and be responsible for the liabilities of each and all of the municipal corporations disincorporated by the consolidation. The new municipal corporation shall require the inhabitants of an original municipal corporation included in the consolidation, by special tax levy, to satisfy any and all indebtedness incurred by such original municipal corporation provided inhabitants residing in other parts of the new consolidated municipal corporation did not or do not benefit by the revenue or services obtained by the expenditure causing the indebtedness. The government of the new corporation shall be subject to the terms of the consolidation agreement.

Section 7. Election of Officials—Former Officials to Serve Until.

Until the next regular municipal election, the elected officials of the municipalities consolidated into the resultant new municipal corporation shall be the council that governs the new municipality. The council shall elect from their members such administrative officials elected usually at a municipal election by a city of its present size to act until the next regular municipal election. The council may employ all necessary employees permitted by law.

Section 8. All Ordinances of Consolidated Units to Remain in Force Until Repealed or Amended — Limitation to Three Years— New Ordinances.

All ordinances, orders and resolutions in force in any of the municipal areas when it is consolidated into the larger unit, shall remain in force within that area in so far as such ordinances, orders and resolutions are not repugnant to law, until repealed or amended, but not for a period in excess of three years. The new city government shall as soon as possible cause such ordinances, orders and resolutions to be changed so that the entire new city has one consistent body of ordinances, orders and resolutions.

Section 9. Constutionality.

If any provision of this act shall be declared invalid by any court of competent jurisdiction, the remainder of the act shall not be affected thereby.

Approved February 27, 1957.

CHAPTER 16

S. B. No. 161. (Passed March 14, 1957. In effect May 14, 1957.)

SALARIES

An Act Amending Section 10-6-41, Utah Code Annotated 1953, as Amended by Chapter 13, Laws of Utah 1953, Relating to Salaries of Officers of Cities of the First and Second Class; and Providing for an Increase in Salary for Incumbents for Remaining Period of Office and Their Successors.

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

Section 1. Section Amended.

Section 10-6-41, Utah Code Annotated 1953 as amended by Chapter 13, Laws of Utah 1953, is amended to read as follows:

10-6-41. Salaries — Cities.

(a) In cities having a population of 90,000 or more the mayor shall receive the sum of $9,000.00 per annum and each other member of the board of commissioners shall receive the sum of $7,200.00 per annum as compensation for his services. In cities having a population of less than 90,000 and more than 30,000 the mayor shall receive the sum of $6,000.00 per annum and each other member of the board of commissioners shall receive the sum of $5,000.00 per annum as compensation for his services. In cities having a population of 90,000 or more the auditor shall receive the sum of $7,200.00 per annum as compensation for his services, and in cities having a population of 30,000 and less than 90,000 shall receive $5,000.00 per annum for his services. In cities of the second class having a population of less than 30,000 and more than 15,000 the mayor shall receive a salary of not less than $1,200.00 or more than $4,800.00 per annum for his services, and each other member of the board of commissioners of such cities shall receive not less than $800.00 or more than $4,320.00 per annum as compensation for his services, and the auditor in such cities shall receive not less than $600.00 or more than $4,560.00 per annum as compensation for his services as the board of commissioners shall by ordinance provide. All other officers of cities of the first and second class and all other officers of other cities shall receive such compensation as may be fixed by ordinance. The compensation of all city officers shall be paid monthly out of the city treasury. None of the provisions hereof shall be deemed to limit or restrict the authority of any city that has adopted or hereafter adopts a charter pursuant to Article XI, section 5, of the state Constitution, to determine the salaries of its elective and appointive officers or employees.

(b) The salaries provided in paragraph (a) of this section shall be the salaries paid to the present incumbents for the remaining portion of their terms after this act becomes effective.

(c) If any of the preceding paragraphs, or parts thereof, shall be found unconstitutional or invalid, the remainder of said section shall not thereby be invalidated, but shall remain in full force and effect.

Approved March 20, 1957.

CHAPTER 17

S. B. No. 230. (Passed March 13, 1957. In effect May 14, 1957.)

SPECIAL TAX LEVY — TIME LIMIT

An Act Amending Section 10-7-14.3, Utah Code Annotated 1953, as Enacted by Chapter 3, Laws of Utah 1953, First Special Session, and as Amended by Chapter 15, Laws of Utah 1955, Relating to a Special Tax Levy for Cities of the First Class; and Providing for an Extended Termination Date.

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

Section 1. Section Amended.
Section 10-7-14.3, Utah Code Annotated 1953, as enacted by Chapter 3, Laws of Utah 1953, First Special Session, as amended by Chapter 15, Laws of Utah 1955, is amended to read:

10–7–14.3. Authorized Mill Levy — Cities of First Class — Limitations of Time.
In cities of the first class the authority to levy such additional 4 mills above the overall limitation provided by Section 10-8-87, Utah Code Annotated 1953, and as amended, shall be limited to a period of ten years from the date of the first levy.
Approved March 18, 1957.

CHAPTER 18

S. B. No. 174. (Passed March 14, 1957. In effect May 14, 1957.)

ACQUISITION AND DISPOSAL OF PROPERTY

An Act Amending Section 10-8-2, Utah Code Annotated 1953, Relating to the Powers of Cities to Acquire and Dispose of Property and Providing that Cities Shall Have the Power to Acquire and Dispose of Property of the Federal Government for the Purpose of Selling or Otherwise Disposing of it.

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

Section 1. Section Amended.
Section 10-8-2, Utah Code Annotated 1953, is amended to read:

10–8–2. Appropriations — Acquisition and Disposal of Property.
They may appropriate money for corporate purposes only, and provide for payment of debts and expenses of the corporation; may purchase, receive, hold, sell, lease, convey and dispose of property, real and personal, for the benefit of the city, both within and without its corporate boundaries, improve and protect such property, and may do all other things in relation thereto as natural persons, and may until December 15, 1959, purchase or otherwise acquire property within their corporate limits from the United States or any of its agencies for the purpose of selling or otherwise disposing of all or part of said property. It shall be deemed a corporate purpose to appropriate money for any purpose which in the judgment of the board of commissioners or city council will provide for the safety, preserve the health, promote the prosperity and improve the morals, peace, order, comfort and convenience of the inhabitants of the city.

Approved March 22, 1957.

CHAPTER 19

H. B. No. 15. (Passed February 18, 1957. In effect May 14, 1957.)

POLICE AND FIRE DEPARTMENTS

An Act Amending Sections 10-6-61 and 10-8-55, Utah Code Annotated 1953 Relating to the Requirement that all Cities of the First and Second Class Maintain a Police Department and Fire Department and the Power of Cities to Make Cooperative Agreements with other Governmental Units to Receive Fire Protection: Enacting a New Chapter Providing that any County or Incorporated Municipality May Establish a Fire Fighting Force or a Fire Department for its Own Protection, and Contract to Provide or Receive Fire Protection from Contiguous Private or Governmental Units.

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

Section 1. Sections Amended.
Secs. 10-6-61 and 10-8-55 are amended to read:

10-6-61. Cities of First and Second Class — Create and Maintain Police and Fire Departments.
The board of commissioners or other governing body of each city of the first or the second class shall create, support, maintain and control a police department and may create, support, maintain and control a fire department in their respective cities.

10-8-55. Fire Departments — Rules and Regulations — Penalties.
They may, except as otherwise provided by law, provide for the organization and support of a fire department, procure fire engines, hooks, ladders, buckets, hose and other apparatus, organize fire engine and hook and ladder companies, prescribe duties, rules and regulations for the government thereof, with such penalty as they may deem proper, and make all necessary appropriations therefor.

Section 2. Section Enacted — Duties of Governing Body — Incorporated Municipalities Provide Adequate Fire Protection.
A new section is enacted to read:
It shall be the duty of the governing body of every incorporated municipality and of the board of commissioners of every county to provide adequate fire protection within their own territorial limits and to cooperate with all contiguous counties, municipal corporations, private corporations, fire districts or federal governmental agencies in order that they may maintain adequate fire protection within their territorial limits. To this end, every incorporated municipality and every county may:

1. Maintain and support a fire fighting force or fire department for its own protection.

2. Contract to furnish fire protection to any proximate county, municipal corporation, private corporation, fire district, state agency or federal agency.

3. Contract to receive fire protection from any contiguous county, municipal corporation, private corporation, fire district, state agency or federal governmental agency.

4. Contract to jointly provide fire protection with any contiguous county, municipal corporation, private corporation, fire district, state agency or federal governmental agency.

5. Contract to contribute toward the support of a fire fighting force, or fire department in any contiguous county, municipal corporation, private corporation, fire district, state agency or federal governmental agency in return for fire protection.

Section 3. Section Enacted — Contracts for Fire Protection — Requirements.

A new section is enacted to read:

Any contract made pursuant to Section 2 of this act shall:

1. Be in writing.

2. Set forth in detail the extent of the fire protection to be afforded by the party or parties contracting to furnish fire protection.

3. Set forth in detail the amount and method of payment to be made by the party or parties.

4. Be in effect for at least one year but not more than five years.

Section 4. Section Enacted — Privileges and Immunities from Liability Under Contract for Fire Protection.

A new section is enacted to read:

All the privileges and immunities from liability which surround the activities of any county or municipal corporation fire fighting force or fire department when performing its functions within the governmental unit's territorial limits shall apply to the activities of that governmental unit's fire fighting force or department while furnishing fire protection outside its territorial limits under any contract pursuant to Section 2 of this act.

Section 5. Section Enacted — Death or Injury to Fireman — In Line of Duty.

A new section is enacted to read:

The effect of the death or injury of any fireman who is killed or injured outside the territorial limits of the county or municipality where he is a member of the fire fighting force or fire department and while that force or department is functioning pursuant to any contract made under Section 2 of this act shall be the same as if he were killed or injured while that force or department was functioning within its own territorial limits, and his death shall be considered in the line of duty.

Approved March 1, 1957.

CHAPTER 20

H. B. No. 13. (Passed February 26, 1957. In effect May 14, 1957.)

ANNUAL BUDGET

An Act Amending Section 10-10-3, 10-10-4, 10-12-1, 10-12-2, 53-20-1, and 53-20-2, Utah Code Annotated 1953, Relating to the Annual Budgets of Cities, Counties and School Districts, and Enacting a New Section Providing for the State Auditor to Furnish Budget Forms at Cost to Cities, Counties, and School Districts.

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

Section 1. Sections Amended.

Sections 10-10-3, 10-10-4, 10-12-1, 10-12-2, 53-20-1, and 53-20-2 are amended to read:

10–10–3. Tentative Budget — Contents — Detailed Estimate of Governmental Departments to Accompany.

On or before the first day in the last month of every fiscal year, the city auditor in cities of the first and second class, as budget officer, shall prepare and file with the board of commissioners of his city a tentative budget on forms furnished by the state auditor, which shall set forth in detail the revenues and expenditures of the preceding fiscal year, the estimated revenues and expenditures for the current fiscal year, the departmental requests for expenditures for the present and the next succeeding fiscal year, his estimate of the revenue for the next calendar year based upon the lowest rate of tax levy which in his opinion will raise the required amount of revenue by using as a basis of calculation the current year's assessed valuation, and his detailed estimate of the essential expenditures of the city for the next succeeding fiscal year. There shall accompany such tentative budget the detailed estimate furnished by the various departments and also a statement showing the financial condition of the city by funds as of the last day of the eleventh month of the current fiscal year and the estimated financial condition by funds at the close of the current fiscal year. The tentative budget shall be made available and placed on file with the city auditor for public inspection and continue so available and on file for a period of at least fifteen days prior to the adoption of a budget as hereinafter provided.

10–10–4. Adoption of Budget — Notice — Hearings — Determination of Expendable Revenue.

On or before the last day of the sixth month of each fiscal year the board of city commissioners shall have prepared and shall adopt a budget for the next fiscal year; *provided,* that notice of the meeting for the adoption of the budget shall have been published in a daily newspaper of general circulation published in the city, if there is one, and in any event, in a newspaper of general circulation in the city, at least one week in advance of the holding of such meeting, and that public hearing shall have been allowed on the budget prior to its adoption, and that the budget prepared by the board of city commissioners shall have been on file with the city auditor and available for public inspection at least three days prior to the holding of any public hearing thereon. The classification of titles and accounts in such budget shall be equivalent to the city's classification of titles and accounts for the current year. It shall be unlawful for any board of city commissioners to make any appropriation in excess of the estimated expendable revenue for the ensuing year. In determining the estimated expendable revenue all unexpended balances of appropriations shall at the end of the year revert to the funds from which they were appropriated and shall be set up as revenue in the budget of the following year, and any existing deficits arising through excessive expenditures of former years shall be deducted from the estimated revenue of the ensuing year

to the extent of at least ten per cent of the entire tax revenue for the city for the previous year. Any budget appropriation may be reduced by action of the board of commissioners at any regular meeting; *provided,* that notice of the proposed action shall have been given to all commissioners at least one week in advance of such action. No increase shall be made in any budget appropriation except upon written request of one of the commissioners setting forth the emergency necessitating the request. Such written request shall promptly be made available for public inspection, and no such request shall be allowed unless notice of consideration thereof shall have been published in a daily newspaper of general circulation published in the city, if there is one, and in any event, in a newspaper of general circulation in the city, at least one week in advance of the meeting at which such request shall be considered and unless also public hearing shall have been allowed prior to the granting of such request. The provisions of this article shall not apply to appropriations necessitated by emergencies involving loss of life or great loss of property. A copy of the budget, as adopted, shall be filed with the state auditor.

10–12–1. Tentative Budget — Contents — Financial Statement to Accompany.

On or before the first day of the eleventh month of each fiscal year the mayor of each city of the third class with the assistance of the city recorder shall prepare and file with the city council a tentative budget on forms furnished by the state auditor which shall set forth in detail the revenues and expenditures of the preceding fiscal year, the estimated revenues and expenditures for the current fiscal year, an estimate of the revenue for the next succeeding fiscal year based upon the lowest rate of tax levy which in his opinion will raise the required amount of revenue, using the current year's assessed valuation, and a detailed estimate of the essential expenditures of the city for the next succeeding fiscal year. There shall accompany such tentative budget a statement showing the financial condition of the city by funds as of the last day of the ninth month of the current fiscal year and also of the estimated financial condition by funds at close of the current fiscal year. Such tentative budget shall be made immediately available for public inspection, and continue so available for a period of at least ten days prior to the adoption of a budget as hereinafter provided.

10–12–2. Adoption of Budget — Notice — Hearings.

On or before the last day of the last month of each year the city council shall adopt a budget for the next fiscal year, and shall pass an appropriation ordinance to govern expenditures of the following year; *provided,* that notice of the meeting for the adoption of the budget shall have been published in a newspaper of general circulation in the city, if there is one, otherwise, shall have been posted in three conspicuous places in the city at least one week in advance of the holding of such meeting, and that public hearing shall have been allowed on the budget prior to its adoption. It shall be unlawful for the city council to make an appropriation in excess of the estimated expendable revenue for the ensuing year. In determining the estimated expendable revenue all unexpended balances of appropriations shall at the end of the

year revert to the funds from which they were appropriated and any existing deficits arising through excessive expenditures of former years shall to the extent of ten per cent of the revenue of the previous year be deducted from the estimated revenue of the ensuing year; *provided, however,* if the total amount of the deficit is less than ten per cent of the revenue of the previous year, the entire amount of such deficit shall be deducted. Any budget appropriation may be reduced by action of the city council at any regular meeting; *provided,* that notice of the proposed action shall have been given to all members of the council at least one week in advance of such action. But this chapter shall not apply in cases of emergency where loss of life or great loss of property is involved. A copy of the budget, as adopted, shall be filed with the state auditor.

53-20-1. Tentative Budget — Statement of Financial Condition — Estimates.

The superintendent of each school district shall be and act as budget officer of such district, and shall on or before June 1, of each year prepare and file with the board of education of his district a tentative budget on forms furnished by the state auditor, which shall set forth in detail the revenues and expenditures of the preceding fiscal year, the estimated revenues and expenditures for the current fiscal year, and his estimate of the revenues for the next succeeding fiscal year based upon the lowest rate of tax levy which in his opinion will raise the required amount of revenue by using as a basis of calculation the current year's assessed valuation; he shall also file his detailed estimate of the essential expenditures for all purposes for the next succeeding fiscal year. There shall accompany such tentative budget a statement showing the financial condition of the district by funds as of May 1, of the current year, and also the estimated financial condition by funds at the close of the current fiscal year. Such tentative budget shall be made available, and be placed on file with the clerk of the board of education, for public inspection, and continue so available and on file for a period of at least fifteen days prior to the adoption of a budget as hereinafter provided.

53-20-2. Adoption of Budget — Notice — Hearing — Reduction and Increase — Notice.

On or before June 30, of each year the board of education of each school district shall prepare and adopt a budget for the next fiscal year, and shall make appropriations to govern expenditures for such year, if notice of the meeting of the board for the adoption of the said budget shall have been published in a daily newspaper published in the district and of general circulation therein, if such is published in the district, but in any event in a newspaper of general circulation in the district, at least one week in advance of the holding of such meeting, and if a public hearing shall have been allowed on the budget prior to its adoption and the budget prepared by the board of education shall have been on file with the clerk of the board and available for public inspection at least ten days prior to the holding of any public hearing thereon. The classification of titles and accounts in such budget shall be equivalent to the district's classification of titles and accounts

for the current year. It shall be unlawful for any board of education to make any appropriation in excess of the estimated expendable revenue for the ensuing fiscal year. All unexpended balances of appropriations at the end of the fiscal year shall revert to the funds from which they were appropriated and shall be set up as revenue in the budget of the following year, and in determining the estimated expendable revenue any existing deficits arising through excessive expenditures from former years shall be deducted from the estimated revenue for the ensuing year to the extent of at least ten per cent of the entire tax revenue of the district for the previous year. Any budget appropriation may be reduced by action of the board of education at any regular meeting of the board, if notice of the proposed action is given to all members of the board and to the superintendent of the district at least one week in advance of such action. No increase shall be made in any appropriation allowed except upon the written request of the superintendent setting forth the emergency necessitating such request. Such written request shall promptly be made available for public inspection, and shall not be allowed unless notice of the consideration thereof shall have been published in a daily newspaper published in the district and of general circulation therein, if one is published in the district, and in any event of general circulation in the district at least one week in advance of the meeting at which such request is to be considered and a public hearing upon such request shall have been allowed. A copy of the budget, as adopted, shall be filed with the state auditor.

Section 2. Budget Forms to be Provided by State Auditor.

The state auditor shall formulate and print uniform budget forms for cities of the first class, cities of the second class with populations over 20,000, cities of the second class with populations under 20,000, cities of the third class, counties with an assessed valuation in excess of $100,000,000, counties with an assessed valuation in excess of $20,000,000 but less than $100,000,000, counties with an assessed valuation in excess of $7,000,000, but less than $20,000,000, counties with an assessed valuation in excess of $4,000,000 but less than $7,000,000, counties with an assessed valuation of less than $4,000,000, and all school districts. These budget forms shall be distributed at cost to each city, county, and school district.

Approved March 6, 1957.

CHAPTER 21

H. B. No. 92. (Passed February 28, 1957. In effect May 14, 1957.)

ANNUAL BUDGET — INCREASING APPROPRIATION

An Act Amending Section 10-12-2, Utah Code Annotated 1953, Relating to Budgets of Third Class Cities and Providing a Method Whereby Said Cities May Increase any Budget Appropriation.

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

Section 1. Section Amended.

Section 10-12-2, Utah Code Annotated 1953, is amended to read:

10–12–2. Adoption of Budget — Notice — Hearings.

On or before the last day of each fiscal year, the city council shall adopt a budget for the next fiscal year, and shall pass an appropriation ordinance to govern expenditures of the following year; *provided,* that notice of the meeting for the adoption of the budget shall have been published in a newspaper of general circulation in the city, if there is one, otherwise, shall have been posted in three conspicuous places in the city at least one week in advance of the holding of such meeting, and that public hearing shall have been allowed on the budget prior to its adoption. It shall be unlawful for the city council to make any appropriation in excess of the estimated expendable revenue for the ensuing year. In determining the estimated expendable revenue all unexpended balances of appropriations shall at the end of the year revert to the funds from which they were appropriated and any existing deficits arising through excessive expenditures of former years shall to the extent of ten percent of the revenue of the previous year be deducted from the estimated revenue of the ensuing year; *provided, however,* if the total amount of the deficit is less than ten per cent of the revenue of the previous year, the entire amount of such deficit shall be deducted. Any budget appropriation may be reduced by action of the city council at any regular meeting; *provided,* that notice of the proposed action shall have been given to all members of the council at least one week in advance of such action. Upon written request of one of the members of the city council setting forth the emergency necessitating it, an increase in any budget appropriation may be authorized. Such written request shall be promptly made available for public inspection. No such request shall be allowed unless notice of consideration thereof shall have been published in a newspaper of general circulation in the city, if there is one; otherwise, said notice of consideration shall have been posted in three conspicuous places in the city at least one week in advance of the meeting at which such request shall be considered and unless a public hearing shall have been allowed prior to the granting of such request. But this chapter shall not apply in cases of emergency where loss of life or great loss of property is involved.

Approved March 7, 1957.

CITIES, COUNTIES AND LOCAL TAXING UNITS

CHAPTER 22

S. B. No. 3 (Passed February 13, 1957. In effect May 14, 1957.)

PLAYGROUNDS

An Act Amending Sections 11-2-1, 11-2-2, and 11-2-6, Utah Code Annotated 1953, Relating to Playgrounds; Providing for the Operation and Maintenance of Television Transmission and Relay Facilities.

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

Section 1. Sections Amended.

Sections 11-2-1, 11-2-2 and 11-2-6, Utah Code Annotated 1953, are

amended to read as follows:

11–2–1. Local Authorities — Right to Designate and Acquire Property for Playgrounds.

The governing body of any city, town, school district or county may designate and set apart for use as playgrounds, athletic fields, gymnasiums, public baths, swimming pools, camps, indoor recreation centers, television transmission and relay facilities, or other recreational facilities, any lands, buildings or personal property owned by such cities, towns, counties or school districts that may be suitable for such purposes; and may, in such manner as may be authorized and provided by law for the acquisition of lands or buildings for public purposes in such cities, towns, counties and school districts, acquire lands, buildings, and personal property therein for such use; and may equip, maintain, operate and supervise the same, employing such play leaders, recreation directors, supervisors and other employess as it may deem proper.

11–2–2. Entertainment and Recreational Facilities.

Such local authorities may organize and conduct plays, games, calisthenics, gymnastics, athletic sports and games, tournaments, meets and leagues, dramatics, picture shows, pageants, festivals and celebrations, community music, clubs, debating societies, public speaking, story telling, hikes, picnics, excursions, camping and handicraft activities, and in areas so remote from regular transmission points of the large television stations that television reception is impossible without special equipment, and adequate, economical and proper television is not available to the public by private sources, said local authorities, may equip and maintain any type transmission or relay facility that operates by means of translator stations, that is authorized by law for the purpose of supplying television to the people, and other forms of recreational activity, that may employ the leisure time of the people in a constructive and wholesome manner.

11–2–6. Cooperative Action Between School Districts and Cities, Towns and Counties.

Any board of education of any school district may join with any city, town or county in purchasing, equipping, operating and maintaining playgrounds, athletic fields, gymnasiums, baths, swimming pools, television transmission and relay facilities of the type referred to in Section 11-2-2 and other recreational facilities and activities, and may appropriate money therefor.

Approved February 21, 1957.

CORPORATIONS

CHAPTER 23

H. B. No. 33 (Passed February 14, 1957. In effect May 14, 1957.)

ARTICLES OF INCORPORATION

An Act Amending Section 16-2-5, Utah Code Annotated 1953, as Amended by Chapter 25, Laws of Utah 1953, Relating to the Contents and Execution of Articles of Incorporation and Providing that the Time of Duration of a Corporation May be Perpetual.

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

Section 1. Sections Amended.

Section 16-2-5, Utah Code Annotated 1953, as amended by Chapter 25, Laws of Utah 1953, is amended to read:

16–2–5. Articles of Incorporation — Contents — Execution.

The incorporators shall enter into an agreement in writing, called the articles of incorporation, signed by each of them, and sworn to by at least three of their number, as hereinafter provided, stating:

(1) The name of the corporation.

(2) The names of the incorporators and their places of residence.

(3) The time of its duration, which shall not in any case be less than three years and which may be perpetual.

(4) The pursuit or business agreed upon, specifying it in general terms.

(5) Its principal place of business.

(6) The amount of stock each party has subscribed.

(7) A description of the different classes of stock, with the terms on which the respective classes are created; and (a) in the case of a corporation with capital stock, the limit of the capital stock agreed upon, the number of shares into which the same is divided and the par value of each share; or (b) in the case of a corporation without nominal or par value to the stock, or any class thereof, that such shares are without nominal or par value, the total number of such shares, and the number of shares of such stock with which it shall commence business which shall not be less than five shares.

(8) The number and kind of its officers and the number of its directors, or that the number of directors shall not be less than a stated minimum nor more than a stated maximum, the qualifications and terms of office, and the time and manner of the election, removal and resignation of the officers and directors with the names of the officers and directors to serve until the first general election; *provided,* that in no case shall the number of directors to be less than three nor more than twenty-five.

(9) How many of the entire board of directors shall be necessary to form a quorum and be authorized to transact the business and exercise the corporate powers of the corporation; *provided,* that a quorum shall be not less than one-fourth of the entire number.

(10) Whether or not the private property of the stockholders shall be liable for its obligations.

(11) Where subscriptions to the stock shall consist in whole or in part of property necessary to the pursuit agreed upon, a description of the property so taken, with a statement of the fair cash value thereof.

(12) Such additional clauses as the incorporators deem necessary for conducting the business of the corporation and for its future safety and welfare.

Approved February 27, 1957.

CHAPTER 24

H. B. No. 109 (Passed March 12, 1957 In effect May 14, 1957.)

NON-PROFIT TELEPHONE CORPORATIONS

An Act Relating to Non-Profit Corporations; Providing a Statutory Maximum Scale of Taxation for Cooperative Non-Profit Telephone Corporations, Enacting a New Section.

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

Section 1. Section Amended.
Section 16-6-17, Utah Code Annotated 1953, is enacted to read:

16–6–17. Cooperative Non-profit Telephone Companies — Valuation of Property for Taxation.

Property of cooperative non-profit telephone corporations organized under this Chapter and financed pursuant to the United States Rural Electrification Act of 1936, as amended, shall not be valued for the purpose of ad valorem taxation in excess of $10.00 times the number of circuit miles of line constituting the telephone system.

Approved March 14, 1957.

CHAPTER 25

H. B. No. 78 (Passed February 28, 1957. In effect May 14, 1957.)

FOREIGN CORPORATIONS

An Act Amending Section 16-8-1, Utah Code Annotated, 1953, Relating to Instruments Which Shall be Filed With the County Clerks and Secretary of State by Certain Foreign Corporations, and Providing that the Secretary of State Shall Refuse Qualification to any Foreign Corporation Whose Name is the Same as that of any Domestic or Qualified Foreign Corporation, or so Nearly Resembling the Name of any such Corporation as to be Misleading.

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

Section 1. Section Amended.

Section 16-8-1, Utah Code Annotated, 1953, is amended to read:

16–8–1. Documents to be Filed With County Clerks.

Every corporation not organized under the laws of this state, except insurance corporations, before doing any business within this state shall file with the county clerk of the county in which its principal place of business in the state will be situated:

(1) A copy of its articles of incorporation, together with a copy of its bylaws and a copy of each and every amendment of its articles of incorporation and of each and every certificate of increase of stock, all certified by the secretary of state of the state in which the company was incorporated or by the officer of the country having custody of its articles of incorporation or corresponding document by whatever name called, except that in the case of corporations organized under

the laws of states or countries not requiring the bylaws to be filed with the secretary of state or other officer, a copy of the bylaws certified by the secretary of the corporation shall be filed with the county clerk.

(2) An acceptance of the provisions of the Constitution of this state, together with a designation of some person residing in said county upon whom all legal process may be served.

(3) A statement under oath verified by two of its officers setting forth in general terms the business it proposes to transact in this state and the amount and proportion of its stock which is represented in this state by its property located or to be acquired therein and by its business to be transacted therein.

Within ten days thereafter copies of all the foregoing papers duly certified by said county clerk shall be filed with the secretary of state, and the corporation shall at the same time pay to the secretary of state the fees provided by law. Upon the filing of such papers with the secretary of state and payment of his fees the secretary of state shall issue a certificate to such foreign corporation that it is duly qualified to transact business in the state of Utah.

The secretary of state shall refuse to issue a certificate of qualification to transact business to any foreign corporation the name of which is the same as the name of a corporation theretofore organized under the laws of this state or of a foreign corporation that has complied with the laws of this state so as to entitle it to do business within this state, or so nearly resembling the name of any such corporation as to be misleading.

Approved March 11, 1957.

CHAPTER 26

S. B. No. 222 (Passed March 13, 1957. In effect March 22, 1957)

FOREIGN CORPORATIONS — PRIVILEGES

An Act Providing that Foreign Corporations May, Without Being Considered to be Doing Business in Utah, Acquire Debts Secured by Mortgages or Liens on Property in Utah and Take Action in Utah Necessary to Enforce and Protect Their Rights and Interests in Such Debts and the Security Therefor; and an Emergency Clause.

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

Section 1. Foreign Corporations — Acts not Considered Doing Business in State.

A foreign corporation may, without being considered to be doing business in Utah, acquire, in transactions outside Utah or in interstate commerce, debts secured by mortgages or liens on real or personal property in Utah and in addition may in Utah enter into the following activities or any combination thereof:

1. Collect or adjust principal and interest payments on such debts.
2. Enforce or adjust any rights in property securing such debts.
3. Take any action necessary to preserve and protect the interest of the mortgagee in said security.

Section 2. Effective Date.

This act shall take effect upon approval.
Approved March 22, 1957.

COUNTIES

CHAPTER 27

S. B. No. 108 (Passed March 14, 1957. In effect January 1, 1959.)

FILLING VACANCIES

An Act Amending Section 17-5-21, Utah Code Annotated 1953, Providing for Filling of Vacancies by County Commissioners; Effective Date.

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

Section 1. Section Amended.
Sec. 17-5-21 is amended to read:

17-5-21. Filling Vacancies.
They may fill by appointment all vacancies that occur in offices filled by appointment of the board of county commissioners, and vacancies in all elective county, district or precinct offices, except as otherwise provided by law; the appointee to hold office for the unexpired term.

In the event of a vacancy in the office of county attorney, they may appoint an attorney who is not an elector of such county, *provided* that when a duly licensed member of the bar in good standing is a resident of the county and will accept the appointment to the position of county attorney, the vacancy shall be filled by the appointment of such licensed member of the bar.

Section 2. Effective Date.
This act shall take effect January 1, 1959.
Approved March 18, 1957.

CHAPTER 28

H. B. No. 1 (Passed February 27, 1957. In effect May 14, 1957.)

COUNTY SERVICE AREAS

An Act Authorizing the Establishment of County Service Areas; Stating the Policy of the Legislature; Enumerating the Extended Services Offered; Establishing the Procedure for Forming and Objecting to a County Service Area; Providing for Public Hearing; Providing for Such Areas to Have Extended Services Increased; Permitting Such Areas to be Taxed; Providing the Tax Procedure and Method; and Providing for the Payment to the County General Fund of Monies Paid to Provide Extended Services.

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

Section 1. Title of Chapter.
This chapter shall be known as the "County Service Area Act."

Section 2. Purpose of Act.

The purpose of this act is to provide a method whereby county service areas may be created. County service areas shall be comprised of unincorporated geographical areas in the various counties which will enable those areas to receive special types of service not common to the entire county and establish a system for the payment of the costs entailed. The legislature finds that the necessity for establishing these county service areas is a result of the growth in the unincorporated areas of some counties. As a result of the large population growth and intensive residential, commercial and industrial development in such areas, extended governmental services are needed in such areas. The legislature recognizes the duty of counties as instrumnts of state government to meet adequately the needs of such areas, and also recognizes that such areas should pay for the extended services provided.

Section 3. Extended Services Unincorporated Areas — Issuance of Bonds.

Whenever an unincorporated area in a county requires one or more of the following extended services which are not provided on a county-wide basis within and without cities, including but not limited to the following: extended police protection; structural fire protection; culinary or irrigation water retail service; water conservation; local park, recreation or parkway facilities and services; cemeteries; public libraries; sewers, sewage and storm water treatment and disposal; flood control; garbage and refuse collection; street lighting; airports; planning and zoning; local streets and roads; curb, gutter and sidewalk construction and maintenance; mosquito abatement; health department services; hospital service; and their provision does not require the issuance of bonds or the issuance of other long term obligations, such services shall be supplied by the creation of a county service area. If the provision of said services shall require the issuance of bonds of the creation of long term obligations said services may be supplied by means of either a county service area or other means available at law.

Section 4. Establishment of County Service Areas — Grounds.

A county service area shall be established if:

1. The board of county commissioners determines that such service should be provided on an extended basis within a county service area; or

2. Such services are requested in a petition for the initiation of proceedings for the formation of a county service area or for the furnishing of additional types of service within a county service area.

Section 5. What Constitutes County Service Area — Proceedings for Establishment.

A county service area may consist of all or any part or parts of the unincorporated area of any one county. All of the territory in the county service area not be contiguous. Proceedings for the establishment of such an area may be commenced at any time, but shall be completed within six months prior to the next fiscal year. Proceedings for the commencement of a county service area shall be instituted by the board of county commissioners when:

1. The majority of the board of county commissioners vote in sup-

port of a resolution made by a member of that board, describing the boundaries of the territory proposed to be included in the area and specifying the type or types of extended county services already provided or to be provided; or

2. A petition, filed with the county clerk, requesting the institution of such proceedings is signed by not less than ten percent of the registered voters residing in the territory proposed to be included within the area. The petition may consist of any number of separate instruments.

The resolution of the board of county commissioners or the petition of the registered voters residing in the area, and all separate instruments related thereto, must describe the boundaries of the proposed area with definiteness and certainty.

Section 6. Resolutions of County Commission—Contents.

Within one month after the resolution has passed or the petition mentioned in Section 4 has been filed with the county clerk, the board of county commissioners shall pass a resolution (1) describing the boundaries of the proposed territory (2) stating the type or types of services proposed to be provided, (3) stating the name proposed for the area in substantially the following form: "(Name of County) County Service Area No.....," (4) stating that a tax sufficient to pay for all such services which are furnished on an extended basis will be annually levied upon all taxable property within such area, (5) fix a time and place for a public hearing on the establishment of the area which shall be not less than thirty nor more than sixty days after the adoption of the resolution mentioned in this Section, and (6) provide that all interested persons who desire to object shall be heard at that time and place.

Section 7. Publication of Certified Copy of Resolution.

The county clerk shall publish a certified copy of the resolution mentioned in Section 5 in at least one newspaper of general circulation publishd in the county, or if no newspaper of general circulation is published in the county, then it shall be published in a newspaper of general circulation in the area.

Section 8. Hearing—Protests—Reports of County Officers—Abandonment of Proposed Extended Services.

At the hearing, protests against the establishment of the area or the furnishing of specified types of extended services within the area may be made orally or in writing by any interested person. Any protest may be withdrawn in writing by the protestant, at any time before action is taken by the board of county commissioners. Prior, to, or during the hearing, the board of county commissioners may require any county officer or employee to file a report giving any opinion or technical information available to them, and the report shall be made part of the record of the hearing. The hearing may be continued from time to time, but the hearing must be concluded within three months. A record of the proceedings and minutes of the hearing shall be taken by the county clerk.

If property owners owning property in the proposed area with an assessed value in excess of one-third of the assessed value of all the

property proposed to be included within the territory, file written protests within thirty days after the conclusion of the hearing, against the establishment of the county service area or against the specified type or types of extended service within the area, the board shall in the former instance abandon the proposed establishment of the county service area, and in the latter instance eliminate those types of service objected to from the ordinance finally establishing the area, *provided* that no extended county services shall, thereafter, be provided from the general funds of the county.

Section 10. Determination by Commissioners of Extended County Services—Appeal.

At the conclusion of the hearing, the board of county commissioners shall determine the extent to which the services described in the resolution are extended county services. When the board of county commissioners determines to establish the area, it shall by ordinance so declare and finally determine and establish the boundaries of the county service area, which shall not exceed the territory proposed, and designate the types of service to be performed therein. Any aggrieved party may appeal to the district court from the decision of the board of county commissioners. Upon petition by the owner, land shall be excluded from the county service area if such land is contiguous to other land not included in the area, and if the board of county commissioners finds that such land will not benefit from any of the types of extended services proposed to be provided within the county service area, Such land may be included at the request of the owner. The board of county commissioners shall not include types of services not specified in the resolution or petition.

Section 11. Extension or Discontinuance of County Service Area.

After the establishment of a county service area, the types of extended services provided may be extended or discontinued by using the procedure mentioned in this chapter or other procedures of similar formality, with any changes in the wording of a resolution, petition, protest or ordinance necessary to make it germane to the proposed amendment, and the proposal shall be defeated or modified or approved for the same reasons and in the same manner as such an area as first formed.

Section 12. Estimate of Cost of Service for Coming Year. Adoption or Revision of Estimate.

On or before July 10th in each year, the county department or county office assigned by the law or county commission to supervise and provide the extended service provided to any certain county service area, shall file with the board of county commission an estimate, accompanied by such supporting data as the board may require, of the cost for general fund purposes of providing the extended service to that particular area by that particular department or county office. The board of county commissioners shall either adopt or revise the estimate and then fix the cost of providing all extended services supplied for the next year to that area; no other budget shall be required.

Section 13. County Commissioners to Fix Rate of Levy of County Service Area Taxes or Fees.

Each year at the time the board of county commissioners fixes and

levies taxes for county purposes, it shall also fix the rate of county service area taxes or fees and shall levy the taxes upon all taxable property within the area. The rate shall include an allowance for delinquency as fixed by the board of county commissioners.

Section 14. Levy and Collection of Tax.

The tax shall be levied and collected as, and with other taxes levied and collected by the county.

Section 15. Transfer of Funds to Reimburse General Fund for Services.

From time to time, the board of county commissioners shall order the transfer of funds in the county treasurer standing to the credit of the county service area of an amount found by the board to be sufficient to reimburse the county general fund for expenditures made in the performance of providing extended services to the area.

Section 16. Annexation of Territory to County Service Area.

Whenever the services of the type being provided within a county service area should be provided in any other portion of the unincorporated territory of the county whether contiguous to the existing area or not, the board of county commissioners may annex that territory to the area in the manner provided by this chapter with such changes as are necessary to make the proceedings germane to the proposed action without denying any person his substantive right.

Section 17. Inclusion of Area into Incorporated Area — Exclusion from County Service Area.

Whenever any territory in a county service area is subsequently included within an incorporated area, that territory is forthwith excluded from the county service area upon the date of its inclusion in the incorporated area. Upon the exclusion of such territory, all unencumbered funds standing to the credit of the county service area upon the date of the exclusion shall be divided between the incorporated area and the county service area in proportion to the assessed value of the real property of the territory excluded and the portion remaining. The unencumbered funds are the sums of money, uncollected taxes, and other uncollected accounts due such county service area, in excess of an amount sufficient to pay all claims.

Section 18. When Abandonment of County Service Area Deemed.

If the board of county commissioners does not levy any county service area taxes or furnish any extended county services, and no county service area funds are expended within an area for three consecutive years, the county service area shall be deemed to be abandoned. Upon the abandonment of the area, any county service area funds shall revert to the county general fund.

Section 19. Levy of Taxes and Fees to Defray Expenses — Limitation on Mill Levy.

A county governing body may levy taxes or may impose necessary fees to defray the costs and expenses of the county improvement district and may exercise all the rights and authority in providing services for and when governing a county service area, *provided, however,* that the mill levy shall not exceed the mill levy fixed by law for a municipality or

district of the same population.

Section 20. Dissolution of Special Improvement Districts.

Any existing special improvement districts in any unincorporated area of the county not under the direct supervision and control of the county commission may dissolve in the same manner as is provided for disincorporation of cities and towns and the residents of the unincorporated areas involved may be furnished extended services under the provisions of this act.

Section 21. County Service Areas May Incur Indebtedness—Limitations—Vote of Electors.

Any county service area established in accordance with the procedure outlined above may incur indebtedness payable from ad valorem taxes not exceeding in the aggregate, with all indebtedness, 12 per cent of the reasonable fair cash value of all the taxable real property in the area, as computed from the last equalized assessment role for county purposes prior to the incurring of such indebtedness. Such indebtedness shall be for the purpose of supplying such services as may be authorized by this act. Bonds issued in such manner that they are payable solely from revenues to be derived from the operation of the facilities of the area shall not be included as bonded indebtedness of the area for the purpose of such computation. The proposition to create such debt must be submitted to the vote of the electors of the service area who have paid a real property tax in the year preceding such election and a majority of those voting thereon must vote in favor of incurring such debt.

Section 22. Proposal to Incur Indebtedness — Originate with County Commission or Electors — Requirements — Resolutions — Hearings — Bond Election — Protests.

A proposal to incur indebtedness may be originated by a majority vote of the board of county commission or by petition of not less than 100 real property owners or 10 per cent of real property owners, whichever is the lesser, residing within the county service area. Such proposal shall specify the particular purpose for which the indebtedness is to be created, the amount in money of bonds which it is proposed to issue and the name and number of the county service area. After such proposal has been made, the board of county commissioners, as expeditiously as possible, shall adopt a resolution fixing a time and place at which the proposal shall be heard, which time shall be not less than thirty nor more than sixty days after the date of adoption of the resolution. The county clerk shall forthwith issue a notice of the time and place of hearing, which notice shall inform all persons resident in the service area of their right to appear at such hearing and contend for or protest against the incurrance of the debt and the holding of a bond election. If the service area shall have theretofore issued bonds, such notice shall include a statement of the amount of outstanding bonds of the service area and shall indicate whether the bonds are general obligations of the service area or are payable solely from revenues. The county clerk shall cause the notice to be published once a week for four consecutive weeks prior to the date of the hearing, in a newspaper of general circulation in the service area. At the time and place set for the hearing of the petition, or upon a subsequent date fixed at the original hearing the board of

county commissioners shall proceed to hear the proposal and all matters in respect to a bond election. If upon the hearing of the proposal the board shall find that due notice has been given and that the services under discussion would be for the benefit of all taxable property situated in the service area, then the board shall make and cause to be entered of record upon its minutes an order so finding, and shall proceed to call the bond election and, if a majority of those voting, vote in the affirmative, to issue the bonds in the manner hereinafter provided. The board shall have authority to reduce the amount in money of the bonds named in the petition. If a written protest filed prior to the holding of the hearings is signed by more than 25 percent in number of the real property owners in the district, according to the last assessment role for county taxes completed prior to the holding of the election, the board shall not have authority to proceed with the calling of the election, and no new petition for a bond election in said service area shall be entertained for a period of 12 months thereafter. If written protests are filed and the board shall determine that the protests so filed represent less than 25 percent of the owners of real property in the county service area, a resolution or finding in writing of the board calling the election shall so recite and such recital shall be conclusive.

Section 23. Calling of Elections.

If under the foregoing provisions the board is authorized to call an election on the issuance of the bonds, the board shall adopt a resolution directing that an election be held in the service area for the purpose of determining whether bonds in the amount, for the purpose, and with the maximum interest rate and maturity specified in the resolution, shall be issued. The resolution calling the election shall be adopted, and notice of the election shall be given. In voting on the question of the issuance of the proposed bonds, none but such qualified voters as shall have paid a real property tax in the district in the year next preceding the election shall be permitted to vote. The voters' qualifications shall be determined, the election shall be held, and the results thereof canvassed in the manner, at the time and in all other respects in accordance with the procedure provided by the laws of Utah for the holding of elections on the issuance of courthouse bonds by counties. The board may for purposes of such election treat the entire service area as a single voting precinct, or may divide the area into such voting precincts and fix such polling places as it may see fit. Except as otherwise provided in such resolution, the general laws of Utah applicable to the calling and holding of city or school board elections shall be applicable.

Section 24. Favorable Vote by Majority — Issuance of Bonds.

If a majority of the qualified electors voting thereon shall vote in favor of incurring the indebtedness as proposed, the board of commissioners shall proceed to issue the bonds in the amount of money specified. Improvements in county service areas may be financed either entirely from ad valorem taxes or entirely from operating revenue of all or part of the facilities and property of said service area or in whole or in part from both ad valorem taxes and operating revenues.

The board shall provide by ordinance for the issuance and disposal of such bonds; *provided,* that no such bonds shall be sold for less than their face value. The board shall annually levy a sufficient tax (a) to

pay the interest on such indebtedness as it falls due, and (b) to constitute a sinking fund for the payment of the principal thereof within the time for which such bonds are issued. Water or sewer bonds may be issued for a period not exceeding forty years; other bonds may be issued for a period not exceeding twenty years. Such bonds may be either serial or term bonds.

Approved March 9, 1957.

CHAPTER 29

S. B. No. 190 (Passed March 11, 1957. In effect March 22, 1957.)

WATER AND SEWAGE IMPROVEMENT DISTRICTS

An Act Relating to Water and Sewage Improvement Districts; and Providing for Annexation of Territory Outside of Such an Improvement District; and an Emergency Clause.

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

Section 1. Annexation of Area to Improvement Districts.

Area outside of any improvement district created under or operating under provisions of Chapter 6 of Title 17, Utah Code Annotated 1953, may be annexed to any such improvement district in the manner herein provided.

Section 2. Manner of Annexation—Resolution.

Any board of county commissioners, upon its own motion, may by resolution declare that the public health, convenience and necessity requires the annexation of an area into an improvement district. Upon presentation to any board of county commissioners of a petition setting forth the area and boundaries thereof proposed to be annexed to an improvement district, signed by the legislative body of any city or town included or partially included within such area, or by 25% or more of the owners of real property included within such proposed area, or when the district to which it is proposed annexation shall be made is already providing district services for such area, then, signed by the board of trustees of such district, it shall be the duty of such board of county commissioners to adopt a resolution as aforesaid. In the event the proposed area includes any part of another county or counties, the above resolution shall further state the name or names of such county or counties, and the areas within such other county or counties proposed to be annexed to an improvement district. A certified copy of such resolution shall then be presented to the board or boards of county commissioners of such other county or counties. It shall be the duty of such other board or boards of county commissioners within sixty days thereafter to approve or reject such resolution. After the approval of such resolution by such other board or boards, the board of county commissioners of the county adopting the original resolution shall thereafter have complete jurisdiction over the proposed area and its annexation to an improvement district and shall proceed as hereinafter provided in all respects as though only a single county were involved.

Section 3. Notice of Adoption of Resolution and Intention to Annex—Hearing — Protests.

After such resolution shall have been adopted by the board of county commissioners, said board shall give notice of its intention to annex said area to a specified improvement district. The notice shall define the area to be included therein and the boundaries thereof. After complying with provisions of Section 17-6-3 as to notice, publication, taxpayer's protests, evidence of ownership and public hearing, the board of county commissioners shall adopt a resolution either annexing the property into the district or determining that it shall not be annexed into the district. Any resolution so annexing an area into the district may contain such changes as may be considered by the board of county commissioners to be equitable and necessary including changes in the boundaries thereof to assure that the district shall contain no property which will not be benfited by being included in the district. Upon the adoption of said resolution, the annexed area shall become, and be, an integral part of such district, and the taxable property therein shall be subject to taxation for the purposes of said district including the payment of bonds and other obligations of such district at the time authorized or outstanding. Writ of review from the determination of the board of county commissioners and the effect thereof shall be controlled by provisions of said Section 17-6-3.

Section 4. Effective Date.

This act shall take effect upon approval.

Approved March 22, 1957.

CHAPTER 30

S. B. No. 191. (Passsed March 11, 1957. In effect March 22, 1957.)

IMPROVEMENT DISTRICTS

An Act Authorizing Counties, Incorporated Municipalities, Improvement Districts, Taxing Districts and Political Subdivisions Owning Sanitary Sewer Facilities to Contract with Each Other for Joint Use of Sewer Lines, Sewage Treatment and Disposal Facilities, Authorizing the Joint Ownership of Such Facilities, Authorizing the Sale of Such Facilities, Authorizing the Issuance of Bonds for the Acquisition of a Joint Interest in Such Facilities, and Authorizing the Joint Operation of Such Facilities; an Emergency Clause.

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

Section 1. Authority Granted to Counties , Incorporated Districts and Others to Contract for Joint Use of Sewage Lines, Treatment and Disposal Facilities—Joint Ownership—Operation.

Any county, incorporated municipality, improvement district, taxing district or other political subdivision of the State of Utah which now or hereafter owns and operates sanitary sewer facilities (each of which is hereinafter referred to as a "public owner") is hereby granted authority:

(a) To enter into long-term contracts with any other public owner

or public owners pursuant to which sewage lines, sewage treatment and sewage disposal facilities, or any part thereof, of one or more public owners shall be available for collection, treatment and disposal, or any part thereof, of the sewage collected by one or more other public owners, or of sewage collected jointly, pursuant to such terms and conditions and for such consideration as may be provided in such contracts. Annual payments due by any such public owner for services received under any such contract shall not be construed to be an indebtedness of such public owner within the meaning of any constitutional or statutory restriction, and no election shall be necessary for the authorization of such contract. Any public owner or owners so contracting to make available sewage collection, sewage treatment and disposal facilities, or any part thereof, may in any such contract agree to make available to such other public owner or owners a specified part of its facilities, without regard to its future need of such specified part for its own use, and may in such contract agree to increase the capacity of its facilities from time to time in the future if necessary in order to take care of its own needs and to perform its obligations to the other parties to such contract.

(b) To construct or otherwise acquire joint interests in, and to own jointly, sewer lines, sewage treatment and disposal facilities, or any part thereof for their common use. To such end, any public owner may sell to any other public owner or owners a partial interest or interests in any of its sewer lines, sewage treatment and disposal facilities. Any public owner may issue its bonds for the purpose of acquiring such joint interest in sewer lines, sewage treatment and disposal facilities, or any part thereof, whether such joint interest is to be acquired through the construction of new facilities or the purchase of such interest in existing facilities, which bonds may be issued under the provisions and in the manner provided in any available law authorizing the issuance of bonds for the acquisition of sanitary sewer facilities by such public owner.

(c) To operate jointly with any other public owner or owners, sewer lines, sewage treatment and disposal facilities, or any part thereof, which they may own jointly.

Section 2. Constitutionality.

If any one or more sections, sentences, clauses, phrases or provisions of this act are for any reason held to be unconstitutional, all remaining parts of this act shall nevertheless continue to be valid and effective, the legislature hereby declaring that all provisions of this act are severable.

Section 3. Effective Date.

This act shall take effect upon approval.

Approved March 22, 1957.

CHAPTER 31

S. B. No. 27. (Passed March 12, 1957. In effect March 22, 1957.)

WATER AND SEWAGE DISTRICTS—ELECTION OF TRUSTEES

An Act Amending Sections 17-6-3.1 and 17-6-3.9 Utah Code Annotated 1953, Enacted by Chapter 29 Laws of Utah 1953, Relating to Polling

Places for Election of Trustee Members and Acquiring Water Rights, and Enacting a New Section to be Known as Section 17-6-3.15 Utah Code Annotated 1953, Providing for the Acquisition by Improvement Districts of Facilities Other Than Those Contemplated by Such Districts at the Time of Their Creation and Annexing Territory to Such Districts; and an Emergency Clause.

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

Section 1. Sections Amended.

Section 17-6-3.1 and 17-6-3.9, as enacted by Chapter 29, Laws of Utah 1953, are amended to read:

17–6–3.1. Board of Trustees—Creation—Appointment and Election of Members—Terms—Vacancies—Right of Qualified Electors to Vote.

The governing body of each district created hereunder, excepting a district the boundaries of which coincide with the boundaries of an incorporated municipality, shall consist of a board of trustees, created in one of the following ways:

1. Whenever a district is created which does not include property within the boundaries of an incorporated municipality the county commissioners of the initiating county may in the initial resolution creating the district declare that the county commissioners of said county shall act as the trustees of the district created thereby and shall constitute all of the trustees thereof; and thereupon and thereafter the duly elected and qualified county commissioners of said county shall act as the said trustees of the said district and shall have all of the powers, authority and responsibility vested in the trustees under this act, and may if they so desire, utilize any existing county offices, officers, or employees for the purposes of the district, when in the opinion of the said commissioners, it would be advisable so to do, *provided, however,* that the district shall be charged by the commissioners and shall pay to the county treasurer for the general fund of the county, a reasonable amount for the services rendered for the district by the county officers, offices and employees so used other than the county commissioners.

2. At any time after creation of any district under the provisions of subsection one, the county commissioners of the initiating county, may by resolution determine that the interests of the district would thereafter be best served by the appointment of a board of at least three (3) trustees to be appointed by the board of county commissioners and to serve for the same terms as is provided hereafter for elected trustees.

3. Upon a petition, signed by at least ten (10) per cent of the persons eligible to vote on a bond issue in any district created under this act, being filed with the board of county commissioners, thirty (30) days prior to the date set for the bond election, or ninety (90) days prior to the date set for succeeding elections, requesting that an election for trustees be held, the board of county commissioners shall be required to proceed with the election in the manner provided hereafter.

4. The board of county commissioners of the initiating county may in the initial resolution creating the district, appoint a board of trustees to serve until the election and qualifications of the successors as hereafter provided.

Each incorporated municipality which is contained entirely within but does not coincide with the boundaries of the district shall be entitled to request the board of county commissioners to appoint as one member of the board a resident of such municipality to be named by the governing body of the municipality. If two or more incorporated municipalities shall be so entitled to representation on the board of trustees, the number of members of the board of trustees shall be increased to the lowest odd number greater than the number of such municipalities so that there shall always be at least one member of the board of trustees residing in the district but outside the corporate limits of any municipality.

The governing body of a district, the boundaries of which at the time of the creation of the district coincide with the boundaries of an incorporated municipality, shall be a board of trustees comprised of the governing body of such municipality. Said board shall maintain separate minutes, accounts and other records of the affairs of the district but may utilize existing facilities and personnel of the municipality in the administration of district affairs in order to avoid inefficiency and unnecessary duplication. Anything in this act to the contrary, notwithstanding, the offices of board members shall coincide with their offices as officials of such municipalities and they shall be representative of the district at large.

An election of the elective member or members of the board of trustees, not appointed as a representative of a municipality, shall be held at the time of holding the bond election.

A member of the board of trustees, not appointed as a representative of a municipality shall be a taxpayer and a qualified voter in the district. At any time within thirty (30) days after the board of trustees has entered an order calling the bond election, but not less than fifteen (15) days next preceding the day of election, any owner of real property in said district outside of an incorporated area may file with the county clerk a signed statement announcing that he or she is a candidate to be one of the first elected trustees of the district to serve as representatives of the unincorporated area in the district. The board of trustees in calling the bond election shall provide a separate ballot on which shall appear the names of the candidates and shall leave blanks in which the voters may write in additional name or names. Each voter at the election shall be entitled to vote for three (3) persons, or such lesser number as may be qualified to represent the area outside the corporate limits of any municipality, should some members of the board of trustees of the improvement district have been appointed by a municipality or incorporated area. The three persons, or such lesser number as may be qualified as provided above, receiving the highest number of votes at the election shall constitute the members of the board of trustees together with those members appointed by a municipality or incorporated area. As a member of the board of trustees, each representative shall be entitled to vote on all questions, orders, resolutions and ordinances coming before the board.

The terms of the members of the board of trustees after the first election as provided herein shall run for two, four and six years from the first Monday in January next following the first election held in the district. Initial terms shall be selected by lot, and shall be apportioned in such manner that as nearly as may be one-third (⅓) of the board

will serve for two (2) years, one-third (⅓) for four (4) years, and one-third (⅓) for six years. Thereafter, except for appointments made to fill unexpired terms, the term of each member shall be six (6) years.

In voting on the question of the issuance of the proposed bonds, none but such qualified voters as shall have paid a property tax in the district in the year next preceding the election shall be permitted to vote, but in voting on the election of trustees all qualified voters in the district outside the corporate limits of any municipality or incorporated area shall be permitted to vote.

Following the election of the first trustees any elected trustee or trustees shall be elected at an election held on the first Wednesday in December next preceding the expiration of the term of office of an incumbant elected trustee and each trustee so subsequently elected shall serve for a term of six (6) years and until his successor is elected and has qualified. Each such trustee shall take office on the first Monday in January next following his election. After the first election, elections for elective members of board of trustees shall be held on the first Wednesday in December in each succeeding two years after the first election.

The election shall be called and conducted, and the canvass of returns shall be made, and the qualifications of electors shall be as provided in the general registration election laws, except as in this chapter provided. The polling places shall be fixed by the board of trustees. It shall be necessary for each candidate, or at least five citizens in behalf of a candidate, to file with the clerk of the board of trustees not less than fifteen days next preceding the day of election a signed statement announcing that he or she is a candidate. Appointments of judges of election shall be made by the board of trustees at any convenient time prior to the day of election. The board of trustees shall furnish to the judges of election at every voting place a sufficient number of ballots for election purposes and shall exercise all such powers relative to the election of trustees as are conferred upon the board of county commissioners in other elections, so far as conformable with this chapter. All lawful and necessary expenses of the election shall be paid by the district, *provided, however*, the county clerk shall furnish without expense to the district at least five days previous to the day of election a certified copy of a list of registered voters residing in the district outside of any municipality or incorporated area. Each trustee shall take the oath of office and shall give such bond as may be at that time required by laws for members of the board of county commissioners, and all laws pertinent to the qualification and giving and filing of oaths and bonds of members of the board of county commissioners shall be applicable to the trustees of the district.

The trustees initially appointed shall meet immediately after their appointment, shall qualify as trustees, and shall organize as a board through the election of one of their members as chairman and through the appointment of a clerk and a treasurer, or a clerk-treasurer. All vacancies of elected trustees in office shall be filled by the board of county commissioners, and all vacancies of appointed representatives shall be appointed by the governing body of the municipality involved. Appointees shall hold office for the unexpired term of the trustee whom

he replaces.

17–6–3.9. Ownership of Property—Sale of Water or Services Outside of District.

Any district created hereunder may own property, appropriate and otherwise acquire water and water rights within and without its boundaries and may sell water or other services to consumers residing outside its boundaries.

Section 2. Section Enacted.

Section 17-6-3.15 Utah Code Annotated 1953, is enacted to read:

17–6–3.15. Acquisition of Facilities—Method — Hearings— Notice — Objections—Application to District Court.

Any district heretofore or hereafter created or operating under this chapter or heretofore created under authority of Chapter 6 of Title 17, Utah Code Annotated 1953, and in the creation of which the proceedings provided only for a system for the supply, treatment or distribution of water, or only for a system for the collection, treatment or disposition of sewage, may nevertheless acquire all of the facilities and exercise of all of the powers permitted under authority of Section 17-6-1. Before any such district shall so acquire water facilities where only sewer facilities were contemplated by the proceedings creating the district, or shall so acquire sewer facilities where only water facilities were contemplated by the proceedings creating the district, and if all or any part of the cost thereof is to be paid with the proceeds of bonds payable in whole or in part from the proceeds of ad valorem taxes, the board of trustees of the district shall given notice of its intention to acquire facilities of the additional nature so proposed, which notice shall generally describe the nature and extent of the improvement proposed and its estimated cost (which estimate, however, shall not constitute a limitation upon the cost of the improvements thereafter constructed), the estimated amount of bonds it is proposed to issue (which estimate shall not be a limitation on the amount of bonds thereafter issued), and state that such bonds are in the discretion of the board to be payable in whole or in part from ad valorem taxes. Notice of such intended hearing shall be given by publication one time in a newspaper having general circulation in the district, which publication shall be made not less than fifteen days prior to the date fixed for the hearing. All interested persons may appear at the hearing either in support of or in opposition to the acquisition of such facilities and may be heard on the question of the adequacy of the benefits to accrue to any property in the district owned by them. At the conclusion of the hearing, or at any meeting to which the hearing may have been adjourned, the board of trustees shall adopt a resolution either finding that the proposed improvements will not sufficiently benefit the taxable property in the district and should be abandoned, or that the taxable property in the district will be sufficiently benefited and that such an improvement shall be acquired. Any property owner who is aggrieved by the determination of the board of trustees may within fifteen days after the adoption of such resolution apply to the district court of the judicial district in which his taxable property in the district is located for a writ of review of the determination of the board of trustees, but only upon the ground that his prop-

erty will not be benfited by the proposed improvements. A failure to apply for such writ of review within said time shall foreclose all owners of property within the district from the right further to object thereto.

Section 3. Effective Date.
This act shall take effect upon approval.
Approved March 22, 1957.

CHAPTER 32

S. B. No. 264 (Passed March 9, 1957. In effect March 26, 1957.)

FLOOD CONTROL DISTRICTS

An Act Authorizing Boards of County Commissioners to Create in Their Respective Counties Improvement Districts for the Making of Local Improvements and the Financing Thereof Through the Levying of Special Assessments on Benefited Property, Providing for the Collection and Enforcement of Such Assessments, Authorizing the Issuance of Warrants and Negotiable Bonds Payable from Such Assessments, Providing for the Levy of a Tax on the Real Property in Such Districts for the Establishment of a Guaranty Fund to Assure the Payment of Such Bonds, Providing for the Manner in Which Such Assessments, Taxes and Bonds May Be Contested, and Making Certain Provisions in Connection with the Foregoing; and Repealing Sections 17-7-2, 17-7-3, 17-7-4, 17-7-5, 17-7-6, 17-7-7, 17-7-8, 17-7-9 and 17-7-10, Utah Code Annotated 1953, and 17-7-1, Utah Code Annotated 1953 as Amended by Chapter 27, Laws of Utah 1955, and 17-7-1.1, Utah Code Annotated 1953 as Enacted by Chapter 27, Laws of Utah 1955 Relating to Flood Control Districts of Counties; and Providing an Emergency Clause.

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

Section 1. Improvement Districts—Creation—Resolution.
The board of county commissioners of any county may on its own initiative by resolution create improvement districts within the unincorporated portion of any such county, order improvements made within any such district, and assess the cost thereof against the real property specially benefited thereby. Improvement districts may be created to establish, grade, pave, repave, extend and widen any street, road or alley and improve, repair, light, curb, gutter, sewer and drain the same; to construct or otherwise acquire sidewalks, driveways from curb to property line, culverts, lighting equipment, sewers, drains, flood barriers, channels and structures connected therewith, and to replace and renew any such improvements.

Section 2. Contents of Resolution.
Such resolution shall in a general way describe the improvement proposed to be made and the estimated cost thereof as determined by the engineer of such county, who may be the county engineer or who may be an engineer or engineers specially retained by the county for such purpose, in which event the fees paid the engineer shall be considered to be one of the costs of the improvement. Such resolution may desig-

nate one of several alternate kinds of materials or forms of construction. The engineer's estimate of cost shall include the estimated contract price and an additional amount for the purpose of paying the cost of engineering, legal fees, inspection, publishing notices, interest on interim warrants, incidental costs, and shall be based on complete plans and specifications prepared under his supervision and available for inspection by the public. The resolution shall identify each tract, block, lot or parcel of land specially benefited by such improvement, whether or not such land fronts upon or abuts or is adjacent to such proposed improvement, which tracts, blocks, lots and parcels of land shall collectively constitute the district. The streets, roads and alleys within any one improvement district need not be connected or contiguous. The entire cost of the improvement estimated by the engineer as above provided may be assessed against the benefited property as herein provided or if money for paying part of such cost is available from any other source, the money so available may be so applied and the remaining cost so assessed against the benefited property. The amount of the assessment proposed to be levied against each of such tracts, blocks, lots or parcels of land shall be set out in such resolution, the total of such assessments to be the amount appearing as the engineer's estimate of cost of the improvement. Such resolution shall also provide that the board of county commissioners will conduct a hearing as to the benefits and the amount assessed against each such tract, block, lot and parcel of land, such hearing to be held at a date not less than thirty days subsequent to the publication of such resolution as required in section 3 hereof.

Section 3. Publication of Resolution.

Such resolution shall be published in full one time in a newspaper published and of general circulation in such county or, if no newspaper is published in such county, by publication in a newspaper of general circulation therein and by posting in not less than three public places in such district. Such resolution shall be accompanied by a notice which shall state that at the time and place specified in such resolution the board of county commissioners will hold a public hearing upon the ordering of such improvement and the determination of benefits and proposed assessment of the costs of such improvement. Such notice shall also state that any interested person will be heard, and that any owner of property to be assessed pursuant to the resolution will be heard on the question of whether his property will be benefited by the proposed improvement to the amount of the proposed assessment against his property and on the question of whether the amount assessed against his property constitutes more than his proper proportionate share of the total cost of improvement. A copy of such notice shall be mailed to the last known address of each owner of land within the proposed district whose property will be assessed for the cost of the improvement. The address to be used for said purpose shall be that last appearing on the real property assessment rolls of the county wherein said property is located.

Section 4. Conduct of Public Hearings—Objections.

On the date and at the time and place specified in the aforesaid resolution, the board of county commissioners shall in open and public session hear all objections to the creation of the proposed district, the making

of the proposed improvement, and arguments relating to the benefits accruing to any tract, block, lot or parcel of land therein, and the amount proposed to be assessed against any such tract, block, lot or parcel of land. Such hearing may be adjourned from time to time to a fixed future time and place. After the hearing has been concluded and after all persons desiring to be heard have been heard, the board of county commissioners shall consider the arguments put forth and shall make such corrections in the proposed list of assessments as it may consider just and equitable. Such corrections may eliminate one or more pieces of property from the district or may decrease the amount of the assessment proposed to be levied against any piece of property, but may not increase the amount of the proposed assessment against any piece of property without the giving of new notice and the holding of a new hearing. After such corrections shall have been made the board shall enter its finding that no proposed assessment on the corrected assessment list exceeds the benefit to be derived from the improvement by the piece of property to be so assessed and that no piece of property so listed will bear more than its proportionate share of the cost of such improvement, and shall direct that proceedings for the making of the improvement and levy of the assessments be continued in the manner hereinafter provided. Such finding and resolution shall be final and no appeal may be taken therefrom except as provided in Section 17 hereof.

Section 5. Persons Failing to Appear Presumed to Waive Objections.

Every person whose property appears in the assessment list so published and who fails to appear before the board of county commissioners and make any objection he may have to the proposed assessment and levy of such assessment, shall be deemed to have waived every objection to such assessment.

Section 6. Notice for Bids to Contractors—Exceptions.

After the hearing provided for in Section 4 hereof the board of county commissioners, if it desires to proceed with the construction of the improvement, shall publish in two consecutive issues of a weekly newspaper of general circulation in said county a notice that sealed bids for the construction of the improvement will be received by the board of county commissioners until a date and hour named, such date to be not less than twenty one days from the date of the first publication of such notice. Such notice shall refer to the complete plans and specifications for the proposed improvement on file with the county clerk and available for the inspection of prospective bidders. Where assessments are to be levied solely for the cost of opening, widening or extending streets, roads or alleys, and no construction is involved, the purchase or condemnation price of the land shall be considered the contract price and notice to contractors may be dispensed with.

Section 7. Opening of Bids—Award of Contract—Division of Improvement into Parts.

The board of county commissioners shall in open session at the time specified in the advertisement for bids, open, examine and publicly declare the bids, and may reject any or all when deemed for the public good, and shall, at such or a later meeting, reject all bids other than the lowest and best bids of a responsible bidder. The board may award the

contract for the work or improvement to the lowest and best responsible bidder at the price named in his bid. Promptly after the award of any contract under this section, the successful bidder shall supply the board of county commissioners with a performance bond in an amount not less than 100% of the amount of such contract and conditioned on the faithful performance and completion thereof. Nothing in this section or the preceding section shall be so construed as to prevent the division of the improvement into parts and the letting of separate contracts for such parts nor to prevent the letting of contracts on a unit basis.

Section 8. Where Cost Greater Than Estimate—New Assessment List —Cost Greater than Benefits Derived—Abandonment of Improvement.

If after bids have been received as above provided it shall appear that the cost of the improvement is going to be greater than estimated by the engineer a new assessment list covering the cost of the improvement as so increased shall be prepared and a new notice shall be given, a new hearing held, and new findings and a determination to proceed made by the board as above provided. If the board shall find that the cost of the improvement as so increased is in excess of the benefits to be derived by the property to be assessed, the improvement shall be abandoned and the resolution creating the improvement district rescinded.

Section 9. Completion of Improvement—Acceptance by Board—Cost—Reduction of Levy—Apportionment of Cost—Notice of Levy —Lien

Upon the completion of any improvement herein provided for the county engineer, if he finds such work to have been completed satisfactorily and in substantial accordance with the plans and specifications, shall so certify to the board of county commissioners, with a recommendation that full payment be made. The board of county commissioners, if it approved the recommendation of the county engineer, shall adopt a resolution so declaring, accepting the work contracted for, and authorizing payment therefor in the manner hereinafter provided. Such resolution shall make a declaration of the final cost of the improvement, including the actual cost of engineering, legal fees, inspection, publishing notices, interest in interim warrants and other incidental costs. If the actual cost of the improvement as so declared is less than the amount specified in the corrected assessment list referred to in Section 4 hereof, the amount of the levy against each tract, block, lot or parcel of land within such district shall be reduced in the same proportion the amount assessed against such tract, block, lot or parcel in said official assessment list bears to the total amount of assessments in such list.

After having made such reduction, if any, the board of county commissioners shall adopt a resolution, specifying what share, if any, of the cost of the improvement is payable from sources other than the assessments herein authorized, and assessing the remaining cost of the improvement against the tracts, blocks, lots and parcels of land benefited, as such tracts, blocks, lots and parcels appear in the aforesaid assessment list and in the amounts therein appearing or in the amounts as so reduced, as the case may be. If it shall appear at any time that by reason of any deficiency, omission, error or mistake in the preparation

of the assessment list or the resolution levying the assessments, any tracts, blocks, lots or parcels appearing in the original assessment list have not been effectively assessed or have been assessed in an incorrect amount, the board of county commissioners shall adopt a supplemental resolution imposing against such tracts, blocks, lots or parcels, assessments in the correct amounts.

Immediately after the adoption of the resolution levying the assessments the board shall cause to be published in the same newspaper in which the original notice of hearing was published, a notice of the adoption of such resolution, which notice shall describe the improvement district or the property therein with sufficient certainty to permit each owner of real property therein to ascertain that his property is included, and which shall advise the owner of each piece of property assessed that the amount of his assessment has become due and collectible immediately upon the publication of the notice and that if it is not paid within thirty (30) days from the date of the publication of such notice, it shall at the expiration of such thirty (30) days commence to bear interest and that it will be conclusively presumed that such owner exercises the right and option which is hereby authorized to pay the amount due in equal annual installments bearing interest at a rate not exceeding seven per cent per annum, payable semi-annually or annually and extending over a period of not exceeding ten years, as provided for in the resolution levying the special assessments. A copy of such notice shall be mailed to the last known address of each owner of land within the proposed district whose property will be assessed for the cost of the improvement. The address to be used for said purpose shall be that last appearing on the real property assessment rolls of the county wherein said property is located. The first installment shall become due on such date not more than twelve months from the publication of such notice as the board shall designate and one installment shall become due on the same day of the same month annually thereafter. The special assessments shall be carried on the tax rolls of the county and collected in the same manner as county taxes. The failure to pay any installment and the interest thereon when due shall ipso facto cause all other installments and the interest thereon to become due and payable and the board of county commissioners shall within thirty days from the date of such default proceed against the property for the collection of the total amount due thereon, including interest plus ten per cent additional on unpaid principal and interest as penalties and costs of collection. Special assessments levied hereunder shall rank on an equality with taxes levied against the property assessed by the state, the county and any taxing district thereof and no sale of property for the non-payment of taxes or other special assessments shall extinguish the lien of other than the taxes or special assessments for the non-payment of which such sale is had. The proceeds of the sale of any property for non-payment of special assessments shall after the payment therefrom of the cost of collection be applied to the redemption prior to maturity of as many of the outstanding special improvement bonds as can be retired with the amount available. The lien of special assessments levied hereunder shall be superior to all other liens against the property assessed except that it shall be on a parity with the lien of ad valorem taxes and the lien of other special assess-

ments and shall be effective from and after the date upon which the notice of levy is published.

Section 10 Interim Payments to Contractor.

The board of county commissioners may from time to time as work progresses in any improvement district pursuant to contract duly entered into, issue to the contractor interim warrants against the improvement district for not to exceed ninety per cent in value of the work theretofore done, upon estimates of the county engineer, which warrants shall bear interest at not to exceed seven per cent per annum from date of issue until paid or exchanged for special improvement bonds, the interest estimated to accrue on such warrants to be included in the cost of the improvement. Interest on such warrants shall be payable only at the time the principal thereof is paid and principal and interest shall be payable only from the proceeds of the sale of the special improvement bonds thereafter issued in anticipation of the assessments or from the proceeds of assessments paid in money and not pledged to the payment of bonds, or if so agreed upon by the contractor and the board of county commissioners, the aggregate amount of principal and interest so due may be discharged through the delivery to the contractor of such special improvement bonds in an amount equal to the aggregate of principal and interest so owed. The remainder of the amount due the contractor in excess of that amount represented by the interim warrants in this section authorized shall be paid either from the proceeds of assessments paid in full in money under the foregoing provisions hereof or from the proceeds of special improvement bonds as hereinafter provided.

Section 11. Issuance of Bonds—Interest Rate—Form.

After the expiration of thirty days from the date of publication of notice of levy as in Section 9 herein provided, the board of county commissioners may issue negotiable interest-bearing bonds in an amount not exceeding the unpaid balance of the amount specified in the corrected assessment list. The bonds shall bear interest at not exceeding seven percentum per annum, payable semi-annually or annually, and shall mature serially over a period not exceeding ten years, but in no event shall such bonds extend over a longer period of time than that period including the period of time over which such installments of special assessments are due and payable and ninety days thereafter. The bonds shall be of such form, denomination and shall be payable in principal and interest at such time and place as the board of county commissioners may determine, and shall be dated as of the date on which the special assessments shall begin to bear interest, and shall be secured by and payable from the irrevocable pledge and dedication of the funds derived from the levy and collection of the special assessments on the property appearing in the corrected special assessment list provided for in Section 4 hereof. The bonds shall be callable for redemption from the proceeds of the sale of any property sold for the non-payment of special assessments but not otherwise unless the bonds on the face thereof provide for redemption prior to maturity. The bonds shall be signed by the chairman of the board of county commissioners, shall be attested by the clerk thereof under the seal of the board, and the interest coupons shall be signed with the facsimile signatures of such officials.

Section 12. Sale of Bonds—Exchange for Warrants by Contractor.

Any bonds issued pursuant hereto may be sold in such manner as may be provided by the board of county commissioners or may be delivered to the contractor or contractors in exchange for warrants previously delivered to them, and in payment for the balances dues such contractor or contractors for which they have not received warrants. If sold, bonds shall not be sold at a price resulting in a net interest cost computed to maturity of more than seven per cent per annum. If delivered to the contractor or contractors, warrants surrendered in exchange shall be accepted at par plus interest due thereon to the date of such exchange and the contractors shall be required to accept delivery of the remainder of the authorized issue of bonds and to pay therefor at par and accrued interest to the date of delivery, so that money will be available to the board to be expended in the payment of the incidental expenses for the payment of which the bonds were in part authorized. Delivery of such bonds to contractors shall always be on such terms that the consideration for the bonds, represented by warrants, amounts due contractors and money as aforesaid, shall be such as to result in a net interest cost on the bonds of not more than 7% per annum computed to maturity according to standard tables of bond values. In advertising for construction bids as provided in section 6 above, the board may stipulate that the contractor must accept warrants and bonds in payment of the contract price as hereinabove in this section provided.

Section 13. Bonds to Have Requisites of Negotiable Paper—Effect of Irregularity or Defects.

Bonds issued hereunder shall have all the requisites of negotiable paper and shall not be invalid for any irregularity or defect in the proceedings for their issuance, sale or delivery and shall be incontestable in the hands of bonafide purchasers or holders for value.

Section 14. Liability of Board of Commissioners Limited to Special Assessments or Improvement Guaranty Fund—Responsible for Prompt Levy and Collection of Assessments.

The board of county commissioners shall not be held liable for the payment of any special improvement bond except to the extent of the money received from the collection of the pledged special assessments and to the extent of the applicable special improvement guaranty fund, but such board shall be held responsible for the prompt levy and collection of all such special assessments and for the faithful accounting and settlement for and payment of the proceeds of the special assessments levied under the provisions of this act.

Section 15. County Treasurer Custodian of Funds.

All proceeds of any levy hereunder shall be kept in the custody of the county treasurer and shall constitute a fund for the payment of the cost and expense of making the local improvement for which such levy is made, and the payment of principal of and interest on bonds and warrants issued under the provisions of this act, and for no other purpose. Each fund so created shall be kept intact and separate from all other funds and shall be paid out only as in Section 11 hereof provided, and for no other purpose than paying the costs and expenses and making the payments hereinabove provided for.

Section 16. Levy on Real Property to Prevent Default—Special Improvement Guaranty Fund—Rebate of Surplus to Real Property Owners.

Whenever it shall appear that the special assessments pledged to the payment of any special improvement bonds issued hereunder have not been or will not be collected in an amount sufficient to assure the prompt payment of all principal and interest due on such bonds, the board of county commissioners shall levy on all real property within the issuing improvement district a special tax in an amount sufficient to prevent such default, or if such default shall have occurred, sufficient to remedy such default. The proceeds of such tax shall be deposited in a special improvement guaranty fund applicable only to the bonds of such district and shall be used solely for the purpose of paying principal and interest on the bonds of the district as to which there would otherwise be a default. Any money remaining in such fund after all principal and interest due on such bonds shall have been paid shall be rebated to the then owners of the real property in such district in the same proportions as the aggregate amount of such taxes previously paid by the then and former owners of each such piece of real property bears to the total taxes paid by the owners of all real property in such district under the provisions of this section over the life of the bonds.

Section 17. Effect of Irregularity or Error in Proceedings—Hearings—Payment Under Protest—Right of Civil Action—Prerequisites—New Levy by Board—Burden of Proof—Limitation for Attack on Legality of Bonds.

No special assessment levied under this act shall be declared void, nor shall any such assessment or part thereof be set aside in consequence of any error or irregularity permitted or appearing in any of the proceedings under this act, but any party feeling aggrieved by any such special assessment or proceeding may pay the assessment levied upon his property within the period during which assessments may be paid in full under the terms of the proceedings, or may pay the first installment thereof within sixty days from the date of the adoption of the resolution levying the assessments, under protest and with notice in writing to the county treasurer that he intends to sue to recover the same, which notice shall particularly state the alleged grievance and grounds thereof. Having so proceeded, such party shall have the right to bring a civil action within fifteen days thereafter, but no later, to recover so much of the special assessments paid, and to enjoin the collections of so much of the unpaid installments of such special assessment, if any, as he shall show to be illegal, inequitable and unjust, which remedy shall be exclusive, the costs to follow the judgment and to be apportioned by the court as may seem proper. The burden of proof to show that such special assessment or part thereof is invalid, inequitable or unjust shall rest upon the party who brings such suit. In any instance where such special assessment is annulled, set aside, or declared void in whole or in part in any such suit, the board of county commissioners shall by appropriate proceeding make a new levy of such assessment, remedying in such new levy whatever defects the court may have found to exist in the original levy. The proceeding for such new levy shall be conducted and notice shall be published and hearing shall be held in the same manner required

for the original levy of such assessment and it shall be no objection to such subsequent levy that there has been a previous levy of such assessment.

Whenever any resolution authorizing the issuance of bonds under the provisions of this act shall have been adopted, such resolution shall be published once in the newspaper in which the original notice of hearing was published. For a period of twenty days thereafter any person whose property shall have been assessed and any taxpayer in the district shall have the right to institute litigation for the purpose of questioning or attacking the legality of such bonds, and the proceedings pursuant to which they are to be issued. No attack on the validity of any of the special assessments which could have been made pursuant to the preceeding paragraph of this section may be made in any proceeding instituted under this paragraph. After the expiration of such twenty day period, all proceedings theretofore had by the board of county commissioners, the bonds to be issued pursuant thereto, and the special assessments and guaranty funds taxes from which such bonds are to be paid, shall become incontestable, and no suit attacking or questioning the legality thereof may be instituted in this state, and no court shall have authority to inquire into such matters.

Section 18. Water, Sewer and Gas Connections to Be Made Before Paving or Repaving is Done.

The board of county commissioners shall in any improvement district before paving or repaving is done therein require water, gas and sewer connections to be made under such regulations and at such distances from the street mains to the line of the property abutting upon the street ordered paved or repaved as may be prescribed by resolution, and shall require that such water pipe connections may be made by any waterworks company owning the water pipe main, and that such gas pipe connections may be made by any person or company owning the gas pipe main. Upon neglect or failure of the water or gas companies to do the same the board of county commissioners may cause the same to be done, and the cost thereof shall be deducted from any indebtedness of the county to such companies, and no bills shall be paid to such companies by the county until all such expense for pipe laying shall have been liquidated. The board of county commissioners shall also have the power at any time to assess the cost of any sewer connections, and of any water connections when the county owns the water and water pipe main, to such depth as it shall deem just and equitable, upon the property opposite such connections.

Section 19. Constitutionality.

If any one or more provisions of this act or the application thereof to any person or circumstance shall ever be held by any court to be invalid the remaining provisions hereof and their application to persons or circumstance other than those to which they have been held to be invalid shall not be affected thereby.

Section 20. Sections Repealed.

Secs. 17-7-1, Utah Code Annotated 1953, as amended by Chapter 27, Laws of Utah 1955; 17-7-1.1, Utah Code Annotated 1953 as enacted by Chapter 27, Laws of Utah 1955; 17-7-2, 17-7-3, 17-7-4, 17-7-5, 17-7-6,

17-7-7, 17-7-8, 17-7-9 and 17-7-10, Utah Code Annotated 1953, are repealed.

Section 21. Effective Date.
This act shall take effect upon approval.
Approved March 26, 1957.

CHAPTER 33

S. B. No. 246. (Passed March 11, 1957. In effect March 14, 1957.)

BOND ELECTIONS

An Act Amending Section 17-12-1, Utah Code Annotated 1953, Relating to Bonded Indebtedness by Counties; Authorizing the Board of County Commissioners to Consolidate Voting Districts in any Bond Election; an Emergency Clause.

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

Section 1. Section Amended.
Section 17-12-1, Utah Code Annotated 1953, is amended to read:

17–12–1. Authority of Board of County Commissioners to Contract Bonded Indebtedneess — Election — Qualification of Voters — Notice — Debt Limit — Refunding.

The board of county commissioners may contract a bonded indebtedness as follows: The board shall by order specify the particular purpose for which the indebtedness is to be created and the amount of bonds which it is proposed to issue, and shall provide for submitting the question of the issue of the bonds to the qualified electors of the county at the next general election or at a special election to be called by the board for that purpose. None but such qualified voters as shall have paid a property tax in the county in which the election is being held in the year next preceding such election shall be permitted to vote upon the question of bonds. If the question is submitted at a special election, it shall be held, except as herein otherwise provided, as nearly as possible in conformity with the general election laws of the state. Notice shall be given of such election for four weeks prior thereto by publication in some newspaper published or having general circulation in the county; if there is no such newspaper, then by posting notices for the same time in each election district in the county and at the courthouse door. Ballots shall be printed by the board and furnished to the qualified electors, which shall read: "For the issue of bonds: Yes. No." If a majority of those voting thereon shall have voted in favor of incurring such debt, and not otherwise, the board may proceed to issue and sell the amount of bonds specified, which bonds may be in registered or coupon form, and the board shall levy the tax necessary to pay the interest and to create a sinking fund for the payment of bonds in each and every year after their issue until the indebtedness is paid. The revenue derived from the sale of bonds shall be applied to the purpose or purposes specified in the order of the board and no other. Should there be any surplus, it shall be applied to the payment

of said bonds. In no event shall any county ever become so indebted to an amount, including existing indebtedness, exceeding two per cent of one hundred per cent of the reasonable fair cash value of the taxable property therein; as computed from the last equalized assessment roll for county purposes prior to the incurring of such indebtedness. Any bonds heretofore or hereafter issued or assumed by any county may be refunded at any time by the board of county commissioners when a lower rate of interest or better terms can be obtained or to provide means for the payment of maturing bonds. Bonds for refunding shall be issued as provided in this section, except that the provisions as to elections shall not apply.

Section 2. Consolidation of Voting Districts — Polling Places.

The board of county commissioners may in any bond election consolidate voting districts and precincts and may select for the purposes of such election any voting places which it considers desirable, without regard to regularly established voting precincts and the voting places therefor.

Section 3. Constitutionality.

If any one or more sections, sentences, clauses, phrases or provisions of this act are for any reason held to be unconstitutional, all remaining parts of this act shall nevertheless continue to be valid and effective, the legislature hereby declaring that all provisions of this act are severable.

Section 4. Effective Date.

This act shall take effect upon approval.

Approved March 14, 1957.

CHAPTER 34

S. B. No. 106 (Passed March 14, 1957. In effect January 1, 1959.)

COUNTY OFFICERS — QUALIFICATIONS

An Act Relating to Qualifications of County Attorneys.

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

Section 1. Section Enacted — Qualifications of County Attorneys.

No person shall be elected to the office of, or serve as county attorney, without being duly licensed to practice law in the State of Utah.

Section 2. Effective Date.

This act shall take effect January 1, 1959.

Approved February 26, 1957.

CHAPTER 35

S. B. No. 107. (Passed March 14, 1957. In effect January 1, 1959.)

COUNTY OFFICERS — QUALIFICATIONS — GENERALLY

An Act Amending Section 17-16-1, Utah Code Annotated 1953, Relating to the Eligibility of County Officers Generally.

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

Section 1. Section Amended.
Sec. 17-16-1, Utah Code Annotated 1953, is amended to read:

17–16–1. Eligibility of County Officers.
No person is eligible to a county, district or precinct office who at the time of his election is not an elector of such county, district or precinct (1) with the exception of county attorneys appointed by the board of county commissioners as provided in Section 17-5-21, Utah Code Annotated 1953.

Section 2. Effective Date.
This act shall take effect January 1, 1959.
Approved March 18, 1957.

CHAPTER 36

H. B. No. 217. (Passed March 13, 1957. In effect May 14, 1957.)

OFFICE HOURS

An Act Amending Section 17-16-9, Utah Code Anotated 1953, Relating to County Offices; Providing that Said Offices may Remain Closed on Saturday; Providing that Acts Appointed to be done on a Saturday When the County Office is Closed may be Performed on the Next Succeeding Business Day.

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

Section 1. Section Amended.
Section 17-16-9, Utah Code Annotated 1953, is amended to read:

Section 17-16-9. Offices to be at County Seats—Office Hours—Saturday Closing.
The clerks, recorders and treasurers of all counties, and except in counties having a population of less than 8,000, all other county officers must have their offices at the county seats; and in counties having a population of 20,000 and over, the clerk, sheriff, recorder, auditor, treasurer, assessor and attorney must keep their offices open for the transaction of business from 9 o'clock a.m. until 5 o'clock p.m. except Saturdays said offices shall be open for the transaction of business from 9 o'clock a.m. until 1 o'clock p.m.; provided that when authorized by resolution of the board of county commissioners county offices may remain closed on Saturday. Should the governing body authorize a Saturday closing, then the hours served by the employees of the county shall not be less than under their present schedule. Any act authorized, required or permitted to be performed at or by, or with respect to,

any such county municipal office on a Saturday when the county municipal office is closed, may be so performed on the next succeeding business day and no liability or loss of rights of any kind shall result from such delay.

Approved March 26, 1957.

CHAPTER 37

H. B. No. 135. (Passed March 13, 1957. In effect May 14, 1957.)

SALARIES OF COUNTY OFFICERS

An Act Amending Section 1, Chapter 28, Laws of Utah 1953, Relating to Salaries for County Officers and Providing for the Fixing and Determining of Said Salaries and Providing Increased Maximum Limits for Salaries.

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

Section 1. Sections Amended.

Secs. 17-16-14 and 17-16-15, Chapter 28, Laws of Utah, 1953, are amended to read:

17-16-14. Salaries of County Officers.

The annual salaries of the officers of all counties in the state shall be fixed by the respective boards of county commissioners at not to exceed the following amounts; *provided, further,* that no county officer holding two or more offices shall receive a salary in excess of $8,250.00 annually:

	Class 1	Class 2	Class 3	Class 4	Class 5	Class 6
Commissioners (each)	$7200	$6325	$3850	$2750	$1650	$1650
Sheriff	$7200	$6325	$4950	$3850	$3300	$2750
Assessor	$7200	$6325	$4950	$3850	$3300	$2750
Clerk	$7200	$6325	$4950	$3850	$3300	$2750
Recorder	$7200	$6325	$4950	$3850	$3300	$2750
Treasurer	$7200	$6325	$4950	$3850	$3300	$2750
Attorney	$7200	$6325	$4950	$3850	$3300	$2750
Surveyor	$7200	$6325	$3850	$2750	$1650	
Auditor	$7200	$6325	$3850			

17-16-15. Fixing and Determining Salaries — Increase or Decrease in Salary Not Authorized for Term Elected — Salary Applicable on Failure to Fix.

The board of county commissioners shall biennially, at a meeting held at least six months prior to the election of county officers, fix and determine the salaries of county officers, for whom maximum salaries are fixed, for the term next succeeding; *provided,* that the salaries of such officers shall not be diminished or increased for the term for which they were elected and shall have qualified; and *provided further,* that should any board fail to fix the salary of any of the county officers as provided in this section, the salary of the predecessor of said officer whose salary has been fixed shall apply; *provided, however,* said boards of county commissioners may within six months

of the effective date of this act fix the salaries of county officers in amounts which in their opinion will establish sufficient and proper salaries for services rendered or to be rendered by officers whose salaries are so fixed; and *provided further* that the maximum salaries for county officers shall not exceed in amount the maximum salaries as set forth in section 17-16-14 hereof.

Approved March 20, 1957.

ELECTIONS

CHAPTER 38

H. B. No. 31. (Passed February 14, 1957. In effect May 14, 1957.)

PLACE OF RESIDENCE

An Act Amending Section 20-2-14, Utah Code Annotated 1953, Relating to Registration and Voting Eliminating Requirement that Residents of Indian and Military Reservations First Acquire Residence off Reservation.

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

Section 1. Section Amended.

Section 20-2-14, Utah Code Annotated 1953, is amended to read:

20–2–14. Place of Residence — How Determined.

For the purpose of registration or voting the place of residence of any person must be governed by the following rules as far as they are applicable:

(1) That place must be considered and held to be the residence of a person in which his habitation is fixed, and to which, whenever he is absent, he has the intention of returning.

(2) A person must not be held to have gained or lost a residence solely by reason of his presence or absence while employed in the service of the United States or of this state, or while a student at any institution of learning, or while kept in any almshouse or other asylum at public expense, or while confined in any public prison, or while residing upon any Indian or military reservation.

(3) No officer, soldier, airman, seaman or marine in the army, airforce or navy of the United States shall be deemed a resident of this state in consequence of being stationed at any military, air or naval station within the same.

(4) A person must not be considered to have lost his residence who leaves his home to go into a foreign country or into another state or precinct in this state, for temporary purposes merely with the intention of returning; *provided* he has not exercised the right of the elective franchise in such state or precinct.

(5) A person must not be considered to have gained a residence in any county into which he comes merely for the temporary purposes without the intention of making such county his home.

(6) If a person removes to another state with the intention of making it his residence, he loses his residence in this state.

(7) If a person removes to another state, with the intention of remaining there for an indefinite time as a place of permanent residence, he loses his residence in this state, notwithstanding he entertains an intention of returning at some future period.

(8) The place where a man's family resides is presumed to be his place of residence, but any man who takes up or continues his abode with the intention of remaining at a place other than where his family resides must be regarded as a resident where he so abides.

(9) A change of residence can only be made by the act of removal joined with the intent to remain in another place. There can only be one residence. A residence cannot be lost until another is gained.

(10) The term of residence must be computed by including the day on which the person's residence commences and by excluding the day of election.

Approved February 27, 1957.

CHAPTER 39

H. B. No. 104. (Passed February 28, 1957. In effect May 14, 1957.)

TRANSFER OF REGISTRATION

An Act Amending Section 20-2-20 as Amended by Chapter 35, Laws of Utah 1955, Utah Code Annotated 1953, Relating to Registration Transfers by Mail for Physically Disabled Voters.

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

Section 1. Section Amended.

Section 20-2-20 as amended by Chapter 35, Laws of Utah 1955, Utah Code Anotated 1953, is amended to read:

20–2–20. Transfer of Registration From One District to Another — Method.

Any registered elector moving from one district to another within the same county prior to the day of an ensuing election must apply to the registration agent, before whom he has already been registered for that year, at any time to and including the Saturday prior to the day of municipal, primary, or general election, and have his name taken off the official register, and receive from the registration agent a certificate to be called a registry transfer certificate, over the signature of the registration agent, showing substantially that he was on a certain day duly registered in the official register of such district (naming it), and that his name has been erased at his own request; which certificate shall entitle him to have his name registered, at any time to and including the Saturday prior to the day of municipal, primary, or general election, in the same manner as other names are registered in any other district within the same county for such election; *provided* it satisfactorily appears to the registration agent receiving the certificate and to whom application is made for the second registration that the applicant is entitled to vote in that district in the next ensuing election. In no event does the neglect on the part of the elector to obtain such transfer entitle the elector to return to the voting district from which he has moved and obtain a ballot or

ballots, but upon the satisfaction of the judges of election that such elector has moved from the district the said judges shall refuse to issue a ballot or ballots to the elector.

A registered elector who by reason of physical disability is unable personally to appear before the registrar in the district where he was originally registered, may apply for a transfer by mail by sending to the registrar of his former district a certificate of disability signed by his physician and a statement of two citizens of the new district in which he resides to the effect that they know the elector and that he is a bona fide resident of the district from which he is applying.

Upon receipt of the request for transfer, the registrar will strike from the registration list the name of the person applying for transfer and mail him forthwith a registry transfer certificate.

The certificate of disability and statement of the two electors will be retained by the registrar as part of the registration record.

Approved March 9, 1957.

CHAPTER 40

H. B. No. 103 (Passed February 28, 1957. In effect May 14, 1957.)

OFFICERS OF ELECTION

An Act Amending Section 20-3-10 Utah Code Annotated 1953, Relating to Election Officers, How Chosen and Duties.

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

Section 1. Section Amended.

Section 20-3-10, Utah Code Annotated 1953, is amended to read:

20–3–10. Election Officers — How Chosen — Duties.

Judges of election for the regular primary election referred to in this chapter shall be chosen and shall serve in the same manner as in the general elections and shall perform the duties imposed in general elections unless otherwise provided in this act.

Approved March 9, 1957.

CHAPTER 41

H. B. No. 183. (Passed March 13, 1957. In effect May 14, 1957.)

INDEPENDENT CANDIDATES

An Act Amending Section 20-3-38, Utah Code Annotated 1953, Relating to Independent Candidates and Filing of Nomination Certificates and Acceptances.

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

Section 1. Section Amended.

Section 20-3-38, Utah Code Annotated 1953, is hereby amended to read:

20–3–38. Independent Candidates — Nomination Certificates — Filing — Limitation on Filing by Persons Who Have in Same Year

Filed Declaration of Candidacy with any Political Party — Acceptance of Nomination.

Candidates for public office who do not wish to affiliate with a political party as defined in this act may be nominated otherwise than by a direct primary election in the manner following:

A certificate of nomination shall be prepared which shall contain the name or names of any candidate or candidates for the office or offices to be filled, their several post-office addresses, if any, their several residences, and, if in a city or town, the street number of residence and place of business, if any, and shall designate in not more than five words, instead of the party, the political or other name which the signers shall select; *provided,* that no name of any political party as defined in this act shall be used, in whole or in part for this purpose. Said certificate shall be signed by legal voters residing within the district or political division in and for which the officer or officers are to be elected to the number of at least three hundred when the nomination is for an office to be filled by the voters of the entire state, or at least one hundred where the nomination is for an office to be filled by the voters of a district less than a state and greater than a county, or by the voters of a county of at least fifty when the nomination is for an office to be filled by the voters of a county, district, ward or other division less than a county, other than a city. The signatures to said certificates of nomination need not all be appended to one paper, but no certificate shall be legal that does not contain the requisite number of names of voters whose names do not appear on any certificate previously filed under the provisions of this section; *provided,* that any such certificate of nomination may be amended in this last respect at any time on or before July 10th. The certificate may designate or appoint upon the face thereof one or more persons as a committee to fill vacancies and in case of vacancy in any of such nominations, the same may be filled by such person or committee by a verified certificate to that effect, duly filed with the officer with whom the original certificate of nomination was filed at least thirty days before the date of election. Each voter signing a certificate shall add to his signature his place of residence and shall, before any officer duly authorized to administer the same, make oath by affidavit thereto attached that he is a voter within and for the political division for which such nomination is made and has truly stated his residence. Said certificate, when executed and acknowledged as before prescribed, shall be filed with the secretary of state when for an office or offices to be filled by the voters of the entire state or of any division or district greater than a county or with the county clerk when for an office or offices to be filled by the voters of an entire county or countv district or city or municipality.

The certificate of nomination to be filed shall be filed with the proper official on or before July 10. Should this date fall upon a Saturday, the deadline would be 1 o'clock p.m. of that day. Should this date fall upon a Sunday, the time would be extended to 5 o'clock p.m. on the following Monday.

No candidate may file as an independent candidate who has previously filed in the same year a declaration of candidacy with any

political party.

Within eight days after the filing of any such certificate of nomination with the proper official as aforesaid, each and every candidate named in said certificate of nomination shall formally accept the nomination therein tendered in a written statement, duly acknowledged which said statement shall contain the full name and place of residence of such candidate and, if in a city or town, the street number of the same, if any there be, and his place of business, if any, and post-office address.

When the provisions of this section have been complied with, the candidate or candidates named in such certificate of nomination shall be entitled to all the rights and subject to all the penalties of candidates nominated at direct primary elections. This section shall be liberally construed, so as to give independent candidates for public office every reasonable opportunity to make their candidacy effective.

Approved March 15, 1957.

CHAPTER 42

H. B. No. 182 (Passed March 13, 1957. In effect May 14, 1957.)

DECLARATION OF CANDIDACY

An Act Amending Section 20-4-9, Utah Code Annotated, 1953, Relating to Filing of Declarations of Candidacy and Designations of Nomination and Acceptances by Political Candidates.

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

Section 1. Section Amended.

Section 20-4-9, Utah Code Annotated 1953, is amended to read as follows:

20-4-9. Party Primary Conventions — Declaration of Candidacy — Designation of Nomination and Acceptance — Time for Filing — Form of Declaration — Effect of Failure to File — Printed Ballots — Balloting and Voting — Selection and Certification of Nominees — Procedural Rules to be Promulgated by Political Parties.

On or before July 10th of even-numbered years, all persons intending to become candidates at a primary convention for any elective office to be filled at the next ensuing November election shall file with the County Clerk for all precinct, county and district offices solely within a county and with the Secretary of State for all other offices, a declaration of candidacy and the County Clerk or Secretary of State shall forthwith certify to the Chairman of the County or State Committee of the party of which the candidate is a member, a copy of such declaration of candidacy; *provided however*, that in the alternative, 25 or more qualified electors may file with the appropriate foregoing officer a designation of nomination designating any qualified elector as a candidate for the nomination for an elective office. When such designation shall have been filed it shall be the duty of the officer in whose office it is filed to notify immediately, by registered mail, the elector named in such designation. If the elector named in the designation shall, by July 10th, file with the officer in whose office the designation was

filed an acceptance of such nomination and pay the required fee, he shall be a candidate at the primary convention in like manner as if he had himself filed a declaration of candidacy. The signers of such designation of nomination shall all be of the same political party as the candidate so designated. The acceptance shall be in a form similar to that used by a candidate who files a declaration of candidacy. The officer in whose office such filings are made shall forthwith certify to the chairman of the County or State Committee of which the candidate is a member, copies of such designation and acceptance. Should July 10th fall upon a Saturday, the filing deadline shall be 1 o'clock p.m. of that day. Should July 10th fall upon a Sunday, the filing time would be extended to 5 o'clock p.m. of the following Monday.

The form of the declaration of candidacy shall be substantially as follows:

State of Utah

County of .....

I, ..., hereby declare my intention of becoming a candidate for nomination by the .....party for the office of ..... I do solemnly swear that I can qualify to hold said office both legally and constitutionally, if selected, and I reside at No. ..... Street in the City or Town of ..... State of Utah, and that I am a member of the .....party; and that I believe in and intend to support throughout my term, if elected, the principles and policies of such political party; that I affiliated with such party at the last general election and I voted for the majority of such party in the last general election (or did not vote at such general election, giving reasons); that I intend to vote for a majority of the candidates of said party at the ensuing election for which I seek to be a candidate; that if nominated as a candidate of said ..... party at said ensuing election I will accept such nomination and not withdraw; that I will not knowingly violate any election law or any law defining and prohibiting corrupt and fraudulent practice in campaigns and elections in this state, and that I will qualify for said office if elected thereto.

.....

Subscribed and sworn to before me this ..... day of ...., 19.....

.....

Notary Public (or other officer qualified to administer oath.)

Any person who fails to file such a declaration of candidacy or to file his acceptance of designation of nomination within the time herein provided shall be ineligible for nomination for such office. At the time and place set for the state, district, county, or precinct primary conventions, the name of any person who has filed such declaration of can-

didacy, or such acceptance, may be placed in nomination for the office for which such a declaration was filed.

Following all nominating and seconding speeches to be made on behalf of any candidate for an office to be filled by a precinct, county, district, or state primary convention, the delegates shall proceed to ballot on printed ballots which the County Clerk or Secretary of State, as the case may be, shall have caused to be printed. Such ballots shall have printed thereon the names of all persons who have filed declarations of candidacy or acceptance of designation. Voting shall be done in private booths in which no person other than the delegate casting a ballot shall be allowed and no delegate shall be allowed to occupy a booth for a period of time exceeding three minutes. No person other than a duly elected delegate shall be allowed to vote. In the event a duly elected delegate shall die or become disqualified, the county central committee of the party to which the delegate belonged and of which he was a resident shall certify the name of an appointed delegate to fill such vacancy. After being marked the ballots cast by the delegate shall be folded so that no person can see the marks thereon and shall be deposited by the delegate in a common ballot box. Each delegate shall cast one vote for each office to be filled; *provided,* that where two or more candidates are to be elected to any office at the next ensuing general election each delegate shall cast as many votes for candidates for such office as there are candidates to be elected to such office at said general election. The ballots shall be counted by judges to be selected by the primary convention. Voting shall be by secret ballot, and adequate time and voting facilities shall be provided to enable all delegates to cast their ballot. After time balloting commences, balloting shall continue for at least one hour thereafter, or for such aditional time as will afford all duly accredited delegates an opportunity to cast their ballots. The two persons receiving the highest number of votes for any office to be filled at the next ensuing election shall be declared the party's nominees to run at the primary election next ensuing; *provided,* that where more than one candidate is to be elected to any office at the next ensuing general election, the candidates at the Convention not exceeding twice the number of candidates to be elected at the ensuing general election who receive the highest votes at the Primary Convention shall be declared the party's nominees for such office. The secretary of each primary convention shall immediately certify to the County Clerk or the Secretary of State, as the case may be, the names of the successful candidates at such primary convention election. Where the number of candidates filing declarations of candidacy, on acceptance of designation, is not greater than the number of candidates to be selected for any office at the next ensuing general election, such candidates shall be declared the party's nominees for such office and shall be certified as such by the County Clerk or Secretary of State, as the case may be, and shall not be required to run at either the primary convention or the regular primary election. Each political primary convention shall establish whatever rules it deems advisable governing its procedure, *provided,* that said rules be consistent with the laws of the State of Utah.

Approved March 18, 1957.

CHAPTER 43

H. B. No. 40 (Passed February 28, 1957. In effect May 14, 1957.)

FILLING VACANCIES ON TICKET

An Act Amending Section 20-4-11, Utah Code Annotated 1953, Relating to Candidates for Nomination to Public Office, to Provide for the Certification of Another Candidate for Nomination Where There are No More Than Two Candidates for the Nomination to Public Office Before the Primary Election and One or Both Shall Die, Resign or Become Disqualified.

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

Section 1. Section Amended.
Sec. 20-4-11, Utah Code Anotated 1953, is amended to read:

20–4–11. Death, Resignation or Disqualification of Candidate Prior to Primary or General Election — Certification of Another Candidate.

When there are no more than two candidates for a nomination and one or both shall die, resign or become disqualified, after the close of the filing period, and before the primary election or if after the primary convention and before the general election, a candidates shall die, resign or become disqualified, the proper state or county central committee, as the case may be, of that party shall certify the name of another candidate or candidates, if available, to the proper filing election officers.

Approved March 9, 1957.

CHAPTER 44

H. B. No. 76 (Passed February 14, 1957. In effect May 14, 1957.)

ELECTORS IN MILITARY SERVICE

An Act Amending Section 20-17-4, Utah Code Annotated 1953, Relating to Electors in the Military Service: Providing Definition for "Electors in Military Service."

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

Section 1. Section Amended.
Section 20-17-4, Utah Code Annotated 1953, is amended to read as follows:

20–17–4. Definitions
Definitions.

(1) As used in this act, the term or terms, "elector in the military service," or "electors in the military service" shall mean any person or persons qualified as an elector or electors under the Constitution and laws of the State of Utah or, being eligible for registration would, by registration, be so qualified, and who is or are:

(a) Members of the armed forces of the United States while in the active service, and their spouses and dependents.

(b) Members of the merchant marine of the United States, and

their spouses and dependents.

(c) Civilian employees of the United States in all categories serving outside the territorial limits of the several states of the United States and the District of Columbia and their spouses and dependents when residing with or accompanying them, whether or not the employee is subject to the civil-service laws and the Classification Act of 1949, and whether or not paid from funds appropriated by the Congress.

(d) Members of religious groups or welfare agencies assisting members of the armed forces, who are officially attached to and serving with the armed forces, and their spouses and dependents.

(2) As used in this act the terms "ballot," "disabled elector's ballot" and "official Utah military ballot" shall mean and include the same ballot or ballots which will be submitted to, and used by other electors of the state of Utah at the primary or general election. The term "ballot" as used in this act shall also, where applicable, be construed to include any official federal ballot provided by any Act of Congress to allow voting by electors in the military service of the United States.

Approved February 25, 1957.

FIDUCIARIES AND TRUSTS

CHAPTER 45

H. B. No. 140. (Passed March 12, 1957. In effect May 14, 1957.)

PRE-ARRANGED FUNERAL PLANS

An Act Amending Sections 22-4-2, 22-4-4 and 22-4-5, Utah Code Annotated 1953, as Enacted by Chapter 39, Laws of Utah 1955, Relating to Funds Collected Under Pre-arranged Funeral Agreements and Contracts; Providing Authorization for Banks and Trust Companies to Invest Said Funds and Release on Surrender of Pass Book.

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

Section 1. Section Amended.

Section 22-4-2, Utah Code Annotated 1953, as enacted by Chapter 39, Laws of Utah 1955, is amended to read as follows:

22–4–2. Deposit of Funds by Trustee.

All such trust funds shall be deposited in the name of the trustee, as trustee, within thirty (30) days after receipt thereof, with a bank or trust company authorized to do business in the state of Utah, and shall be held in trust, subject to the provisions of this Act.

Said deposit shall be deemed a trust deposit, and the depository bank or trust company shall have all the rights and authority to invest and use said funds as are usually exercised with trust deposits and shall further be obligated to the payment of the net earnings of said trust deposit as provided for in section 22-4-4. The trustee at the time of making deposit shall furnish to the depository the name of each payor, or contracting party, the name of the decedent beneficiary, and the amount of payment on each such account for which deposit is being so made.

Section 2. Section Amended.

Section 22-4-4, Utah Code Anotated 1953, as enacted by Chapter 39, Laws of Utah 1955, is amended to read as follows:

22–4–4. Withdrawal of Funds, When Allowed — Release of Funds to Payor Prior to Death of Beneficiary.

All payments and amounts so deposited, with all earnings and interest thereon, shall not be withdrawn until the death of the sole or one of the beneficiaries, *provided* that said funds plus all interest and earnings shall be released to the payor originally paying said funds under the purchase agreement, and said payor shall be entitled to receive the same or any part thereof, at any time prior to the death of any beneficiary, upon demand upon said bank or trust company, and upon surrender of any pass book evidencing same.

Section. 3. Section Amended.

Section 22-4-5, Utah Code Annotated 1953, as enacted by Chapter 39, Laws of Utah 1955, is amended to read as follows:

22–4–5. Payment upon Death — Proof of Death and Funeral Payment —Refund of Excess.

If upon the death of the decedent beneficiary, the amounts deposited or any part thereof remains, the same shall not be paid by such bank or trust company to the trustee or any other person until the expiration of at least five (5) days after the date of death of the said beneficiary. Said funds shall not be paid by said bank or trust company, to any person otherwise entitled thereto under the agreement, until a certified copy of the death certificate of such beneficiary shall have been furnished to said bank or trust company, and the pass book pertaining thereto has been surrendered, together with a verified statement setting forth all the terms and conditions of such agreement or pre-arranged funeral plan have been fully performed by said trustee. Any balance remaining not otherwise disposed of by, or not used in payment for merchandise or services as provided for in, said agreement or pre-arranged funeral plan, shall revert to and inure to the benefit of the estate of said deceased payor, on, or purchaser of, said agreement.

Approved March 21, 1957.

FISH AND GAME

CHAPTER 46

S. B. No. 202 (Passed March 14, 1957. In effect May 14, 1957.)

SPECIAL DEER HUNTING PERMITS

An Act Repealing Section 23-4-5, Utah Code Annotated 1953, as Enacted by Chapter 39, Laws of Utah 1953, Relating to Special Deer Hunting Permits Under the Fish and Game Code.

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

Section 1. Section Repealed.

Section 23-4-5, Utah Code Annotated 1953, as enacted by chapter 39, Laws of Utah 1953, is repealed.

Approved March 22, 1957.

CHAPTER 47

H. B. No. 28. (Passed February 7, 1957. In effect May 14, 1957.)

DEFINITIONS

An Act Amending Sections 23-1-9, 23-6-1, 23-6-2, 23-6-4, 23-6-5, 23-6-6, 23-6-7, 23-6-8, 23-7-21, as Amended by Chapter 39, Laws of Utah 1953, and Repealing Section 23-6-3, as Amended by Chapter 39, Laws of Utah 1953, Relating to Fish and Game and Providing for Elimination of Racoon, Muskrat, and Nutria from the List of Fur-bearing Animals; Prohibiting use of Game Fish for Bait in Trapping Fur-bearing Animals; Providing for Trapping of Fur-bearing Animals During Open Season on Public Lands or on Private Lands with the Consent of the Owner; Providing for Control of Trapping by Fish and Game Commission on Lands Controlled by the Fish and Game Commission; Providing Restrictions on Trapping; Providing that the Fish and Game Commission Supply Books for Recording Certain Transactions; Providing for Obtaining Permits for Private Fur Farms; Providing for Trapping License.

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

Section 1. Section Amended.

Section 23-1-9, Utah Code Annotated 1953, as amended by Chapter 39, Laws of Utah 1953, is amended to read as follows:

23–1–9. Definitions.

Definitions, as used in this Code:

1. "Person" includes an individual, two or more individuals, association, partnership, or corporation.

2. "Department" means the Utah state department of fish and game, and "director" means the director of the Utah state department of fish and game.

3. "Commission" means the fish and game commission of the state of Utah, and "commissioner" means a member of the fish and game commission.

4. "Board" means the state board of big game control.

5. "District" means the fish and game district.

6. "Take" means hunt, pursue, catch, capture, angle, seine, kill or possess or attempt to hunt, pursue, catch, capture, kill or possess.

7. "Warden," "officer," or "deputy" means a person appointed and authorized to enforce the fish and game laws.

8. "Bird" means game bird or meat thereof.

9. "Fish" means all species of fish.

10. "Animal" means all the quadrupeds and amphibians mentioned herein and now or hereafter within this state and not held by private ownership legally acquired.

11. "Game fish" means all species of trout, bass, salmon, pike, catfish, crappie, perch, white fish, grayling and such other species of fish as may be declared game fish by the commission, and which are not raised in private fish hatcheries.

12. "Amphibians" means bull frogs.

13. "Game birds" means all native species of grouse, pheasants, quail, partridge, water fowl, wild turkey, mourning dove, band-tailed pigeon, cranes, rails and shore birds, and all exotic species of birds not native to this state which have been or may be introduced or transplanted into this state by the state department of fish and game and the offspring therefrom, which are edible or fit for human consumption, and not raised on private game farms.

14. "Game animal" means all big game animals and such other quadrupeds as may be declared game animals by the fish and game commission.

15. "Big game animals" means buffalo, elk, deer, mountain sheep, mountain goat, antelope and moose.

16. "Game" includes game birds, game animals, game fish, fur-bearing animals and amphibians, not raised on private game farms or in private fish hatcheries.

17. "Fur-bearing animals" means otter, mink, marten or sable, and beaver, not raised on private fur farms.

18. "Trapping" within the meaning of this Code: "Trapping" or "trap" refers to and includes the use of any trap, net, snare, deadfall or other device used for the purpose of capturing or attempting to capture any fur-bearing animal and includes every attempt or the assistance of any person to take or attempt to take fur-bearing animals by such methods, and also includes the hunting of such animals with the use of firearms, weapons, or dog.

19. "Bag limit" means the maximum limit, in number or amount of game which may lawfully be taken by any person during one day.

20. "Possession limit" means the maximum limit, in number or amount, of game which may lawfully be in possession of any one person.

21. "Hours" unless otherwise stated means the hours of the day or night when game can lawfully be taken.

22. "Open season" means that period of time during which the taking of game is allowed.

23. "Closed season" means that period of time during which the taking of game is prohibited.

24. "Transport" means moving from one place to another and includes offer or receive for transportation.

25. "Sell" includes offer for sale, possess for sale, barter, exchange or trade.

26. "Day" means calendar day and "week" means calendar week.

27. "Section" means a section of this Code unless some other statute is expressly mentioned.

28. "Chumming" means the placing in the water of fish, parts of fish, or other material for the purpose of attracting fish to a particular area in order that they may be taken.

29. "Angling" or "angle" means fishing with a rod or pole held in the hands, such rod or pole to have fastened thereto a line with not more than 2 hooks, or 1 trolling lure with not more than 3 gangs or not more than 3 hooks attached to said line.

30. "Set line" means any line with a hook or hooks attached thereto which is used to take or attempt to take fish otherwise than by angling.

31. "Hook" or "Fish hook" means an implement to catch or hold

fish or amphibians. "Single hook" means any hook with one point and with or without a barb. "Double hook" means any hook with two hooks and with or without a barb. "Treble hook" means any hook with three hooks and with or without a barb.

32. "Snag or gaff hooks" are hooks with or without handles used to take fish in such manner that the fish does not take the hook voluntarily in its mouth.

33. "Resident" means any citizen of the United States who has been bona fide domiciled in the State of Utah for one year immediately preceding the date of purchase of a license required by this Code and includes residents of this state in military service, attending school, or employed in the federal service, who have not established residence in any other state.

34. "Nonresident" means any citizen of any age of the United States who has not been bona fide domiciled in the State of Utah for one year immediately preceding application for a license as required by this Code and includes any citizen of the United States who has established residence in another state for any purpose except income taxation.

35. "Refuge" or "preserve" means an area set apart and designated as a place of refuge and sanctuary for birds, animals or fish.

36. "Special hunting season" means a season other than a general open season.

37. "General open season" means a season open to all of the public who are lawfully licensed to take the game permitted by his license.

38. "Predatory animal" means all carnivorous animals not classified in this Code as "game."

39. "Tag" or "tagged" means the certificate, stamp or tag attached to the carcass of game as evidence of legal taking or ownership.

40. "Carcass" means the dead body or any part thereof of any game animal.

41. "Private game bird farm" means a place where game birds are propagated and kept.

42. "Private fur farm" means an enclosure where fur-bearing animals are propagated and kept and which enclosure prevents the commingling of public and privately owned fur-bearing animals.

43. "Private fish pond" means a body or stream of water properly screened to prevent the commingling of public and privately owned fish.

44. "Hunt" or "hunting" includes shooting, shooting at, pursuing, taking, catching or killing any game animal or game bird.

Section 2. Section Amended.

Section 23-6-1, Utah Code Annotated 1953, as amended by Chapter 39, Laws of Utah 1953, is amended to read as follows:

23–6–1. Animals Classed as Fur-Bearing Animals.

For the purpose of this Code, the following shall be classed as fur-bearing animals: Otter, mink, marten or sable, and beaver not raised on private fur farms.

Section 3. Section Amended.

Section 23-6-2, Utah Code Annotated 1953, as amended by Chapter 39, Laws of Utah 1953, is amended to read as follows:

23–6–2. Trapping License—Limitations on Bait — Interference with Traps—Possession of Green Pelts or Carcasses.

It shall be unlawful for any person to hunt, trap, trap for, ensnare, shoot or kill, or take in any manner whatsoever, fur-bearing animals within this state at any time except as herein provided, without having first obtained a state trapper's license.

Persons holding a state trapper's license may trap for fur-bearing animals in accordance with the regulations prescribed by the fish and game commission. It shall be unlawful to disturb, destroy or remove a trap of any licensed trapper.

It shall be unlawul to use the flesh of any game bird, song or insectivorous bird, game animal, or game fish for bait in trapping fur-bearing animals at any time.

The possession of the green pelt or carcass of any fur-bearing animal except during the open season or 15 days thereafter is unlawful.

Section 4. Section Repealed.

Section 23-6-3, Utah Code Annotated 1953, as amended by Chapter 39, Laws of Utah 1953, is hereby repealed.

Section 5. Section Amended.

Section 23-6-4, Utah Code Annotated 1953, as amended by Chapter 39, Laws of Utah 1953, is amended to read as follows:

23–6–4. Public Lands Open to Licensed Trappers and Private Lands with Consent of Owner.

Persons licensed to trap within this state may trap fur-bearing animals during open seasons on public land or on private lands with the consent of the land owner or tenant as provided by proclamation.

Section 6. Section Amended.

Section 23-6-5, Utah Code Annotated 1953, as amended by Chapter 39, Laws of Utah 1953, is amended to read as follows:

23–6–5. Trapping on Land Controlled by Fish and Game Commission.

All trapping on lands controlled by the fish and game commission shall be governed by the fish and game commission.

Section 7. Section Amended.

Section 23-6-6, Utah Code Annotated 1953, as amended by Chapter 39, Laws of Utah 1953, is amended to read as follows:

23–6–6. Otter, Mink, Marten and Beaver—Taking Prohibited Except During Open Season—Exceptions — Violations.

It shall be unlawful for any person to trap, snare, shoot, capture or kill, or attempt to trap, snare, shoot, capture or kill in any manner whatsoever, any otter, mink, marten or beaver until such time as the commission shall provide an open season for the taking of fur-bearing animals; *provided, however,* that when it is apparent that beaver are doing damage to, or are a menace to private property, canal banks, irrigation structures, or other man-made waterways during the closed season, any landowner, tenant, or employee of said landowner or tenant, may request a permit from representative of the Utah State Department of Fish and Game to kill or trap or cause to be killed or trapped the beaver so involved. Upon such request the representative of the Department shall

issue said permit to the owner, tenant or employee. Beaver so taken may be destroyed or possessed and sold if properly tagged.

Provided further, that authorized members of the department may take beaver at any time to properly manage or control beaver populations. Pelts from beaver so taken shall be sold or otherwise disposed of for the best interest of the state and the money derived from the sale thereof shall be placed in the fish and game fund.

Any person trapping beaver shall notify the conservation officer in the district where the pelts were taken and shall furnish an affidavit, giving his name, residence, license, or permit number, the date and place of capture, and the number of beaver so taken, and if the conservation officer is satisfied of the legal taking of the same, he shall attach a numbered tag to each pelt covered by the affidavit. Charge for the tags shall be determined by the commission and indicated in the proclamation governing the taking of beaver.

Beaver legally taken, possessed, and tagged may be bought, sold, or transported within the State of Utah. Skins or furs of furbearers shall not be transported, carried, or shipped in any manner from the state without first obtaining a shipping permit from the department. Application for the transporting or shipping of beaver skins shall show the number on the tag attached to said beaver skins.

It shall be unlwaful for any person to remove any tag from any beaver skin, or to buy, sell or transport untagged beaver skins, or fail to have tags attached to beaver skins as herein provided within fifteen (15) days of the expiration date of the open season.

Section 8. Section Amended.

Section 23-6-7, Utah Code Annotated 1953, as amended by Chapter 39, Laws of Utah 1953, is amended to read as follows:

23-6-7. Fur Dealers—Definition—Resident and Non-Resident—Books to be Kept—Inspections—Licensing of Fur Dealers and Dealer's Agents—Violation—Misdemeanor.

Any person or persons, firm, company or corporation, engaging in, carrying on or conducting wholly or in part the business of buying or selling, trading or dealing, within the State of Utah, in the skins or pelts of any fur-bearing animal or fur-bearing animals, shall be deemed a fur dealer within the meaning of this section. If such fur dealer has resided within the state one year immediately preceding his application for a license or if his or its principal place of business is within the State of Utah, he or it shall be deemed a resident fur dealer. All other fur dealers shall be deemed nonresident fur dealers.

Every fur dealer shall keep a book which shall be furnished by the department in which shall be recorded separately on the date of each transaction the following facts:

The number and kinds of all skins or pelts of fur-bearing animals described in this Code purchased by such dealer.

The trapper's license number under which such furs or pelts were taken in cases where a trapper's license is required for the taking thereof.

The names and addresses of the persons from whom such skins or pelts were purchased.

Said books shall be open at all reasonable times to the inspection of

the state fish and game commission or any of its deputies, and shall be preserved and accessible for four years after the expiration of any license granted to said fur dealer.

All fur dealers as defined in this section shall, before buying, selling or in any manner dealing in the skins or pelts of any fur-bearing animals as hereinabove described within the State of Utah secure a fur dealer's license from the state fish and game commission, provided that no license shall be required for a licensed trapper or fur farmers selling skins or pelts which he has lawfully taken, or raised, nor for any person not a fur dealer who purchases any such skins or pelts exclusively for his own use and not for sale.

Any person who is employed by a resident or nonresident fur dealer as a fur buyer, in the field, shall be deemed a fur dealer's agent.

Application for a fur dealer's license must be made by the fur dealer employing said agent and no agent's license shall be issued until the necessary fur dealer's license has been first secured by the employer of said agent.

Any person, firm, company, or corporation violating any of the provisions of this section shall be guilty of a misdemeanor.

Section 9. Section Amended.

Section 23-6-8, Utah Code Annotated 1953, as amended by Chapter 39, Laws of Utah 1953, is amended to read as follows:

23–6–8. Private Fur Farms—Application—Permit—Receipts.

It shall be lawful for residents to establish and maintain private fur farms and sell or dispose of fur-bearing animals and furs reared by them upon such farms. Any person, establishing such farm, shall make application in writing to the commission describing such farm and location thereof, setting forth the kind or kinds of animals which it proposes to rear and the commission shall issue such person a permit without charge to establish such farm.

It is provided that receipts must be issued by the vendor to the vendee in any case where fur-bearing animals or furs shall change ownership by virtue of this section and both the vendor and vendee shall produce such receipt or evidence of legal transaction upon request by the state fish and game commission, the state fish and game director, or any employee of the fish and game department or other person authorized to enforce the fish and game laws.

Section 10. Section Amended.

Section 23-7-21, Utah Code Annotated 1953, as amended by Chapter 39, Laws of Utah 1953, is amended to read as follows:

23–7–21. Trapping License.

A resident, upon paying $6.00, may receive a license to trap fur-bearing animals.

Approved February 18, 1957.

CHAPTER 48

H. B. No. 23. (Passed February 7, 1957. In effect May 14, 1957.)

RED CLOTHING TO BE WORN BY HUNTERS

An Act Amending Section 23-4-12, Utah Code Annotated 1953, As Enacted by Chapter 39, Laws of Utah 1953, Relating to Red Clothing to Be Worn by Hunters, Providing That During Any Special Archery Big Game Season that Only a Red Headgear be Worn.

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

Section 1. Section Amended.

Section 23-4-12, Utah Code Annotated 1953, as enacted by Chapter 39, Laws of Utah 1953, is amended to read as follows:

23–4–12. Red Clothing to Be Worn by Hunters—Red Headgear to be Worn During Archery Hunting.

Every person, while hunting big game animals, shall wear conspicuous red headgear, and red shirt, sweater, or jacket with the exception that a conspicuous red headgear be the only required outer clothing during any special big game seasons limited to archery hunting.

Approved February 15, 1957.

CHAPTER 49

H. B. No. 177. (Passed March 13, 1957. In effect May 14, 1957.)

BOATS — LIFE PRESERVERS

An Act Relating to Public Safety Prescribing Life Preservers as Standard Equipment on all Ships, Vessels or Boats on Utah Lakes, Rivers, Reservoirs, Canals and Navigable Streams; Providing a Penalty.

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

Section 1. Section Enacted—Life Preservers Required on all Ships, Vessels and Boats.

Every person, partnership, association, corporation or group of individuals, however styled or designated, who owns or operates a ship, vessel or boat which is used on Utah lakes, rivers, reservoirs, canals or navigable streams shall equip the same with one life preserver for each person aboard of a type to be prescribed by the state department of fish and game.

Section 2. Violations—Penalty.

Failure to comply with the provisions of this act is a misdemeanor.

Approved March 22, 1957.

HEALTH

CHAPTER 50

H. B. No. 127. (Passed March 12, 1957. In effect May 14, 1957.)

STATE DEPARTMENT OF HEALTH—POWERS AND DUTIES

An Act Relating to Public Health, Prohibiting the State Department of Health from Exercising Control over Irrigation and Non-Potable Water and Providing Precautions to be Used in Conveyance Thereof in Areas Served by Potable Water Systems.

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

Section 1. Section Enacted.

Section 26-15-4.5, Utah Code Annotated 1953, is enacted to read as follows:

26-15-4.5 Control Over Irrigation and Non-Potable Water Prohibited to State Health Department—Precautions in Areas Served by Potable Water Systems.

Nothing contained in Chapter 15 of Title 26, Utah Code Annotated 1953, as enacted by Chapter 42, Laws of Utah 1953, shall be construed as authorizing the State Department of Health to exercise administrative control over water used solely for irrigation purposes, whether conveyed in pipes, ditches, canals, or by other facilities, nor, to promulgate rules and regulations relating to the construction, operation, and maintenance of facilities for conveying such water to the place of use. Where non-potable water is conveyed in pipe lines under pressure in areas served by a potable water system, the following precautions for the protection of public health shall be observed:

(1) A distinctive coloring or other marking on all exposed portions of the non-potable system shall be used.

(2) There shall be a complete physical separation of potable and non-potable water system service lines and extensions and they shall be installed in separate trenches.

(3) All hydrants and sprinkling system control valves shall be operated by a removable key so that it will not be possible to turn on the hydrant or valve without a key.

(4) Ther shall be no cross connection between the potable and non-potable water systems.

(5) The non-potable system shall not be extended into any building.

(6) No connection in the non-potable water system shall be made except by the person responsible for its management.

Approved May 15, 1957.

CHAPTER 51

H. B. No. 101. (Passed March 12, 1957. In effect May 14, 1957.)

HOSPITAL LICENSING

An Act Amending Section 26-15-54, Utah Code Annotated 1953, as Enacted by Chapter 42, Laws of Utah 1953 Relating to the Public Health Code Definition of General Hospitals and the Requirements Therefor: Permitting the Establishment of Hospitals Wherein Osteopathic Physicians and Surgeons May Practice and Render Service to Their Patients.

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

Section 1. Section Amended.

Section 26-15-54, Utah Code Annotated 1953, as enacted by Chapter 42, Laws of Utah 1953, is amended to read:

26–15–54. Definitions.

Definitions as used in section 26-15-54 to 26-15-64:

(1) A "general hospital" is a place which maintains and operates organized facilities for medical, obstetrical, and surgical diagnosis and treatment of human illness, and a place to which sick, injured, or pregnant persons may be admitted, which remains open and is continuously ready to receive patients throughout twenty-four hours of every day in every week in each year.

It shall have an attending medical staff consisting of one or more physicians licensed to practice medicine and surgery in all its branches or licensed to practice as an osteopathic physician and surgeon in the state of Utah.

Hospitals shall be classified according to the types of cases treated in each institution, as: General hospital, mental hospital, cancer hospital, children's hospital, orthopedic hospital, maternity hospital, and such other classes as may appear which meet the specifications of this act.

Provisions of this chapter do not apply to any of the following institutions:

a. Nursing and convalescent homes.
b. Homes for the aged or infirm.
c. Homes for the needy.
d. Homes for the nursing and domiciliary care of children of preschool age.
e. Infirmaries and orphanages.
f. Private sanatorium.
g. Doctor's offices and clinics where patients are not regularly kept as bed patients.
h. Maternity homes for pre or postnatal care.
i. Homes or institutions referred to in section 26-15-86.

The Utah state board of health shall have the authority to determine whether or not any institution or agency comes within the scope of this definition and its decision in that regard shall be subject to such rights of review as the courts exercise with respect to administrative action.

(2) "Person" means any individual, firm, partnership, corporation, company, association, or joint stock association, and the legal successor thereof.

(3) "Governmental unit" means the state, or any county, municipality, or other political subdivision or any department, division, board or other agency of any of the foregoing.

(4) The word "council" means the hospital council hereinafter provided for.

(5) "Licensing agency" or "department" means the state department of health.

Approved March 14, 1957.

HIGHWAYS

CHAPTER 52

S. B. No. 159. (Passed March 11, 1957. In effect March 26, 1957.)

ROAD COMMISSION — MEMBERS — QUALIFICATION

An Act Amending Sections 27-2-1, Utah Code Annotated 1953 as Amended by Chapter 43, Laws of Utah 1953, 27-2-2, Utah Code Annotated 1953, and 27-2-3, Utah Code Annotated 1953 as Amended by Chapter 41, Laws of Utah 1955, Relating to the State Road Commission; Creating a State Road Commission Independent of the Engineering Commission, Its Appointment, Membership, Duties, and Providing for a Director; Amending Section 2-1-2, Utah Code Annotated 1953, Relating to the Utah State Aeronautics Commission and Providing that the State Road Commission Members Shall Serve; Repealing Sections 63-1-1, 63-1-2, 63-1-3, 63-1-4, 63-1-5, 63-1-6, 63-1-7, 63-1-8, 63-1-9, 63-1-10, 63-1-11, 63-1-12, 63-1-13, 63-1-14, 63-1-15, 63-1-16, 63-1-17, 63-1-18, and 63-1-19, Utah Code Annotated 1953, Relating to the Department of Engineering; and an Emergency Clause.

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

Section 1. Sections Amended.

Secs. 27-2-1, Utah Code Annotated 1953 as amended by Chapter 43, Laws of Utah 1953, 27-2-2, Utah Code Annotated 1953, and 27-2-3, Utah Code Annotated 1953 as amended by Chapter 41, Laws of Utah 1955, are amended to read:

27-2-1. State Road Commission—Member—Qualification—Chairman—Quorum—Right to Sue—May Be Sued on Written Contracts—Meetings.

The state road commission shall be composed of five members. The members of the state road commission shall enforce the provisions of law relating to state highways. The members of the commission shall be residents of Utah no more than three of whom shall be members of any one political party and shall be appointed by the governor, with the advice and consent of the senate, on a part-time basis, for a term of six years, commencing on April 1 of odd numbered years. Two of the first commissioners to be appointed shall be appointed for terms of only two years and two of the first commissioners to be appointed shall be appointed for terms of only four years in order that terms may be stag-

gered thereafter. Each commissioner shall hold office until his successor is appointed and qualified. The selection of the commissioners shall be as follows: one commissioner from district No. 1, comprising the counties of Box Elder, Cache, Davis, Morgan, Rich and Weber; one commissioner from district No. 2, comprising the counties of Salt Lake, Tooele and Utah; one commissioner from district No. 3, comprising the counties of Carbon, Daggett, Duchesne, Emery, Grand, San Juan, Summit, Uintah and Wasatch; one commissioner from district No. 4, comprising the counties of Beaver, Garfield, Iron, Juab, Kane, Millard, Piute, Sanpete, Sevier, Washington and Wayne; one commissioner selected from the state at large. They shall receive no salary as members of the commission, but shall be paid a sum to be determined by the Board of Examiners for each day actually spent in the performance of their duties and shall be reimbursed for actual and necessary traveling and other expenses incurred while in the service of the state. By its name the commission may sue, and it may be sued only on written contracts made by it or under its authority. The state road commission is given authority to settle all claims not in excess of five hundred dollars arising out of accidents or injuries caused through the negligence of the commission or any of its employees in the course of their employment. One member of the state road commission shall be designated by the governor as chairman. Any three commissioners shall constitute a quorum. Each member of the state road commission shall qualify by taking the constitutional oath of office and giving a surety bond in such form and in such amount as shall be determined by the department of finance, the premium on which shall be paid by the state.

Meetings of the state road commission may be held at any time upon call of the governor, the chairman, the director or two members of the commission upon notice of the time, place and purpose of the meeting given by mail, telephone or telegraph to each member of the commission at least seven days prior to the date of the meeting. Meetings may be held upon any shorter notice upon unanimous approval of members of the commission.

27-2-2. Director — Appointment — Bond — Qualifications and Compensation.

The state road commission shall employ, with the approval of the governor, a director for the enforcement of the laws relating to construction, maintenance and repairs of state highways, who shall be a qualified executive with technical and administrative experience and training and who shall possess such other qualifications as may be prescribed by the commission. The director shall qualify by taking the constitutional oath of office and giving bond conditioned for the faithful performance of his duties in such amount and in such form as the department of finance shall determine. The commission shall fix his compensation and he shall be paid his expenses necessarily incurred while actually engaged in the performance of his duties in authorized travel from his office in the state capitol.

The director shall employ, with the approval of the commission, a chief engineer and such professional and technical personnel as required, with salaries or other compensation fixed by the commission,

and other personnel as required, with salaries and wages fixed according to schedules established for state personnel.

27–2–3. Cooperation with Other Departments and Agencies.
The state road commission shall cooperate with the Utah tourist and publicity council, with all national, state and local planning and zoning agencies and boards, and with city and county officials and with other agencies in promoting and constructing road building projects and in planning and promoting road building programs into the scenic centers of the state and in providing camping grounds and facilities in such centers for tourists.

Section 2. Section Amended.
Sec. 2-1-2, Utah Code Annotated 1953, is amended to read:

2–1–2. Aeronautics Commission Created—Membership.
There is created an aeronautics commission to be known as the Utah state aeronautics commission to consist of five members. The members of the state road commission shall be the members of said commission and shall enforce the provisions of this act and shall be paid as their only compensation, other than for traveling expenses and disbursements as provided in section 2-1-5, the sum to be determined by the Board of Examiners for each day actually spent in the performance of their duties. The aeronautics commission shall meet in the manner provided in section 27-2-1.

Section 3. Sections Repealed.
Secs. 63-1-1, 63-1-2, 63-1-3, 63-1-4, 63-1-5, 63-1-6, 63-1-7, 63-1-8, 63-1-9, 63-1-10, 63-1-11, 63-1-12, 63-1-13, 63-1-14, 63-1-15, 63-1-16, 63-1-17, 63-1-18, and 63-1-19 are repealed.

Section 4. Effective Date.
This act shall take effect upon approval.
Approved March 26, 1956.

CHAPTER 53

S. B. No. 7 (Passed February 21, 1957. In effect May 14, 1957.)

ROAD COMMISSION — POWERS AND DUTIES

An Act Amending Section 27-2-7, Utah Code Annotated 1953, Relating to State Highways and the Additional Powers and Duties of the State Road Commission, Adding a New Sub-Section Designated as (21) and Providing for the Payment to Publicly, Privately and Cooperatively Owned Utilities of the Cost of Relocation of its Facilities.

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

Section 1. Section Amended.
Section 27-2-7, Utah Code Annotated 1953, is amended to read:

27–2–7. Powers and Duties.
The commission shall have the following powers and duties:

(1) To make all contracts for the construction and maintenance of state highways.

(2) To formulate and adopt rules and regulations for the expenditure of public funds for the construction, improvement and maintenance of state highways, and other purposes authorized by law, and for letting contracts for any work which the commission is authorized by law to do.

(3) To determine what portion or portions of any state highway shall be improved at the expense of the state.

(4) To make agreements with the approval of the governor on behalf of the State of Utah with the United States government, or any department of the same, in any manner affecting the state roads of the state.

(5) To make written agreements on behalf of the state with any county, city or town for rights-of-way, for the improvement or maintenance of any part of the state roads at the expense of the state, or at the expense of any county, city or town, or at the joint expense of the state and any county, city or town.

(6) To make such rules and regulations governing the use by the public of state roads as may be necessary to provide for public safety and against undue use of the state roads.

(7) To send its members or other representative to attend such meetings, within the state, or, with the approval of the governor, without the state, as it deems will be of benefit to the work of the commission.

(8) To furnish information to the traveling public regarding roads, road conditions and places of interest within the state.

(9) To prescribe standard guide boards and road signs or other devices for the guidance of traffic, and regulate or prohibit the use of all other guide boards and road signs on any state road; to classify, designate and mark the state highways and to provide a uniform system of marking and signing highways, and such system of marking and signing shall correlate with and so far as possible conform to the system adopted in other states; to determine the character or type of and to place or erect upon state highways traffic control signals at places where the commission shall deem necessary for the safe and expeditious control of traffic, and so far as practicable all such traffic control signals shall be uniform as to type and location. No traffic control signals shall be erected or maintained upon any state highway by authority other than the state road commission, except with its written approval.

(10) To adopt regulations in regard to traffic on state roads, not in conflict with law, and to close state roads under construction. When it is necessary to close the highways that are under construction, proper barriers and notices shall be posted at each end of such closed highway at the point where the detour road takes off from such closed highway and such detour road shall be clearly indicated by signs, and the same shall be adequately maintained.

(11) To prescribe the qualifications and duties of all employees of the commission and to inquire into their official conduct; to employ and remove at pleasure such clerical, engineering and other assistants as it may deem necessary to the proper carrying out of the work of its departments, including a secretary who shall certify to documents and affix its seal.

(12) To divide the state highway into sections for the purpose of repairing, conditioning and otherwise maintaining the same, and for this purpose the commission may appoint supervisors of state highways, whose duty it shall be to have general supervision of the repairing, conditioning and maintaining of the same, subject to the regulations of the commission, and to perform such other duties as may be required by the commission.

(13) To furnish plans, specifications and estimates for culverts and bridges, and for road construction, together with such necessary information with respect thereto as may be desired by boards of county commissioners for use on state or county roads.

(14) To test road materials, and to conduct experiments and make investigations with reference to road construction whenever the commission shall deem it necessary, and to prepare and issue a comprehensive manual of road building and maintenance for the information and guidance of officials having supervision of such work.

(15) To keep all records, maps, profiles and papers in the office of the commission open for public inspection and reference.

(16) To adopt a seal and file a description and impression thereof in the office of the secretary of state.

(17) To submit to the governor biennially, on or before the last day of October preceding each regular session of the legislature, a report of all expenditures, together with a statement of the work accomplished, and also a statement of the general condition of the roads of the state, with such recommendations as the commission may deem proper.

(18) To have jurisdiction over and to plant, water, prune, cut, remove or otherwise care for trees, shrubs and other vegetation within the limits of state highways and to enter into agreements with adjoining property owners, municipalities, park and water commissioners, public officials or other persons for the planting, care or removal of trees, shrubs and other vegetation within or outside the highway limits.

(19) To set up a department of highway safety in charge of a qualified highway safety engineer whose duty it shall be:

(a) To conduct a highway safety survey and locate, designate and recommend the removal by the state road commission of highway hazards to safety.

(b) The state road commission is hereby authorized to expend sufficient of the funds allocated to it to accomplish the purposes of this act.

(20) To supervise the construction and maintenance of all roads and highways within the property lines of all state institutions.

(21) (a) To make reasonable regulations for the installation, construction, maintenance, repair, renewal and relocation of all facilities and drainage and irrigation systems (herein called "facilities") of any utility in, on, along, over, across, through, or under any project on the Federal-aid primary or secondary systems of highways as the same now are or may hereafter be defined by act of Congress, or on the Interstate System, as herein defined, including extensions thereof within urban areas. Whenever the commission shall determine that it is necessary that any such facilities which now are, or hereafter may be, located in, on, along, over, across, through or under any such Federal-aid primary or secondary system or on the Interstate System, including ex-

tensions thereof within urban areas, should be relocated, the utility or political subdivision owning or operating such facilities shall relocate the same in accordance with the order of the commission; *Provided, however,* that the cost of relocation in connection with the highway systems as defined in this paragraph, shall be paid by the commission in all cases where proportionate reimbursement of such cost may be obtained by the State of Utah from the United States pursuant to the Federal-aid Highway Act of 1956. In case of any such relocation of facilities, as aforesaid, the utility or political subdivision owning or operating the same, its successors or assigns, may maintain and operate such facilities, with the necessary appurtenances, in the new location or locations.

(b) For the purposes of this section, the term "utility" shall include privately, cooperatively and publicly owned utilities, including drainage and irrigation systems and utilities owned by all political subdivisions.

(c) For the purposes of this section, the term "cost of relocation" shall include the entire amount paid by such utility properly attributable to such relocation after deducting therefrom any increase in the value of the new facility and any salvage value derived from the old facility.

(d) "Interstate System" means any highway now included or which shall hereafter be included as a part of the National System of Interstate and Defense Highways, as provided in the Federal-aid Highway Act of 1956 and any acts supplemental thereto or amendatory thereof.

(e) The cost of relocating utility facilities in connection with any project on the Federal-aid primary or secondary systems or on the Interstate System is hereby declared to be a cost of highway construction.

Approved March 4, 1957.

CHAPTER 54

H. B. No. 232. (Passed March 12, 1957. In effect May 14, 1957.)

STATE ROADS — DESIGNATION

An Act Amending Sections 27-6-9, 27-6-13, 27-6-15, and 27-6-24, Utah Code Annotated 1953, as Amended by Chapter 45, Laws of Utah 1953, and Section 27-6-27.10 Utah Code Annotated 1953, as Amended by Chapter 45 Laws of Utah 1953 and Chapter 44, Laws of Utah 1955, Relating to the Designation of Certain Roads as State Roads.

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

Section 1. Sections Amended.

Sections 27-6-9, 27-6-13, 27-6-15, and 27-6-24, Utah Code Annotated 1953 as amended by Chapter 45, Laws of Utah 1953, and Section 27-6-27.10 Utah Code Annotated 1953, as amended by Chapter 45, Laws of Utah 1953, and Chapter 44, Laws of Utah 1955 are amended to read:

27-6-9. State Roads — Routes 71 to 80.

The following named roads are designated as state roads:

(a) Route 71. From Salt Lake City on route 181 southerly via Seventh East Street to 7700 South Street.

(b) Route 72. From Loa on route 24 via Fremont northeasterly to route 10 at Ivy Creek.

(c) Route 73. From route 68 west of Lehi southwesterly via Cedar Fort, and Fairfield to Five Mile Pass thence northwesterly via Chemical Storage Depot to route 36 northeast of St. John station.

(d) Route 74. From American Fork on route 1 northerly to Alpine.

(e)

(f) Route 76. From route 1 about three miles south of Cove Fort, easterly to Sulphurdale.

(g)

(h) Route 78. From Orem on route 1 easterly to Edgmont on route 7.

(i) Route 79. From route 38 easterly via Thirty-first Street in Ogden to route 204.

(j) Route 80. From route 1 near Point of the Mountain east via American Fork Canyon and Alpine to route 7 in Provo Canyon.

27-6-13. State Roads — Routes 111 to 120.

The following named roads are designated as state roads:

(a) Route 111. From route 4 south of Magna southerly along foothills to Lark, thence easterly via Herriman and Riverton to Draper thence north to route 71.

(b) Route 112. From Tooele on route 36 northwesterly to Grantsville on route 4.

(c) Route 113. From Heber on route 6 westerly to Midway, thence southerly to Charleston on route 7.

(d) Route 114. From Pleasant Grove on route 1 southerly via Geneva, Vineyard and Lake View to Provo on route 1.

(e) Route 115. From Spanish Fork on route 1 westerly to Benjamin, thence southerly to Payson on route 1.

(f) Route 116. From Mt. Pleasant on route 32 westerly to Moroni on route 11, and from route 11 west to route 30 south to Freedom, and from Freedom on route 30 northwesterly to the forks of Maple Canyon.

(g) Route 117. From route 24 southerly east of Bicknell via Teasdale and Grover to Boulder.

(h) Route 118. From route 258 between Central and Elsinore south to Monroe, thence westerly to Joseph on route 11.

(i) Route 119. From Richfield on route 11 easterly via Glenwood to route 24 at Kings Meadow Canyon.

(j) Route 120. From Enterprise on route 18 westerly via Terry's Ranch to the Utah-Nevada state line.

27-6-15. State Roads — Routes 131 to 140.

The following named roads are designated as state roads:

(a) Route 131. From Bountiful junior high school on route 106 westerly to Woods Cross thence southerly to route 1.

(b) Route 132. From Nephi on route 1 southwesterly to Lynndyl on route 26.

(c) Route 133. From Coalville on route 4 easterly via Pine View to the Utah-Wyoming state line.

(d) Route 134. From route 35 six miles north of Duchesne via Mountain Home to U.S. Indian Reservation boundary.

(e) Route 135. From route 125 in Oak City easterly to the forest boundary.

(f) Route 136. From route 259 east of Kanab northerly via Johnson Canyon and Alton to route 11 at Alton Junction.

(g) Route 137. From route 11 southerly to Mayfield thence westerly to route 11 at Gunnison.

(h)

(i) Route 139. From route 8 near Spring Glen westerly to Consumers.

(j) Route 140. From Harding on route 26 westerly via Oasis to Deseret thence northerly to route 27 east of Hinckley.

27-6-24. State Roads — Routes 211 to 220.

The following named roads are designated as state roads:

(a)

(b) Route 212. From route 1 in Washington Town southerly via Virgin River to Washington Fields, thence westerly to route 64.

(c) Route 213. From route 35 in Oakley easterly along the Weber River to the Pines approximately 12 miles.

(d)

(e) Route 215. From St. John on route 36 southwesterly to entrance to Dugway Proving Grounds.

(f) Route 216. From route 53 near Myton southeasterly about seven miles to Castle Peak Gilsonite mines.

(g) Route 217. From route 1 approximately two miles north of north city limits of Logan westerly via Logan airport to Benson Ward LDS Church.

(h) Route 218. From route 23 east of Newton easterly to route 1 in Smithfield.

(i) Route 219. From the post office on the main street of Morgan City southerly across the Weber River to the high school, thence westerly to the junction with the roads to Milton and Richville.

(j)

27-6-27.10 State Roads—252 to 260.

The following named roads are designated as state roads:

(a) Route 252. From route 6 west of Myton via Myton Main Street to route 6.

(b) Route 253. From a point on route 56 approximately six miles west of Cedar City westerly to Desert Mound.

(c) Route 254. From a point on route 253, approximately two miles west of junction with route 56, northerly to Iron Springs.

(d) Route 255. From a point on route 1 at North Salt Lake, northerly on road commonly known as Orchard Drive via Bountiful and Centerville and thence westerly to route 106.

(e) Route 256. From route 63 approximately 3.5 miles west of Salina southerly via Aurora to route 11.

(f) Route 257. From Deseret on route 140 southwesterly via Black Rock to route 21 at Milford.

(g) Route 258. From Elsinore on route 11 northerly via Central to route 11.

(h) Route 259. From Kanab on route 11 easterly to the Utah-Arizona state line enroute to Glen Canyon Dam.

(i) Route 260. From route 44 near Greendale northerly via Flaming Gorge dam to the Utah-Wyoming state line at a point either east or west of the Green River.

Approved March 18, 1957.

HUSBAND AND WIFE

CHAPTER 55

S. B. No. 18. (Passed March 13, 1957. In effect May 14, 1957.)

DIVORCE

An Act Amending Sections 30-3-4, 30-3-6 and 30-3-7, Utah Code Annotated 1953, Relating to Pleadings, Findings and Procedure in Hearing of Divorce Matters; and Providing When a Decree of Divorce Shall Become Absolute; also Enacting Twelve New Sections to be Known as Sections 30-3-11, 30-3-12, 30-3-13, 30-3-14, 30-3-15, 30-3-16, 30-3-17, 30-3-18, 30-3-19, 30-3-20, 30-3-21 and 30-3-22, Utah Code Annotated 1953, Declaring the Public Policy of the State of Utah to Preserve Desirable Marital Relationships, Particularly Where Minor Children are Involved; Providing for the Appointment of Domestic Relations Counselors and Assistants and Describing Their Duties; Declaring the Relation of the State Department of Public Welfare to Said Court and Authorizing Expenditure of Welfare Funds; Relating to the Support and Custody of Children; and Providing for the Enforcement of Court Orders with Regard to Alimony and Support Payments.

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

Section 1. Sections amended.

Sections 30-3-4, 30-3-6 and 30-3-7, Utah Code Annotated 1953, are amended to read:

30–3–4. Complaint — Hearing — Findings — Decree — Interviews with Domestic Relations Counselors.

The complaint shall be in writing and signed by the plaintiff or plaintiff's attorney. No decree of divorce shall be granted upon default, or otherwise, except upon legal evidence taken in the cause, and all hearings and trials for divorce shall be had before the court, and not before a master, referee or any other delegated representative, except for interviews held by the domestic relations counselors as provided in this chapter; and the court in all divorce cases shall make and file its findings and decree upon the evidence.

30–3–6. Interlocutory Decree — Three Months.

If after the hearing of any divorce cause the court is of the opinion that the divorce ought to be granted to either person, a decree shall be entered granting to such person a divorce; but the decree shall specifically provide that it shall not become absolute until the expiration of three months from the date of its entry.

30–3–7. When Decree Becomes Absolute.

The decree of divorce shall become absolute at the expiration of three

months from the entry thereof, unless an appeal or other proceedings for review are pending, or the court before the expiration of said period for sufficient cause upon its own motion or upon the application of any person, whether interested or not, otherwise orders.

Section 2. Sections Enacted.

Sections 30-3-11, 30-3-12, 30-3-13, 30-3-14, 30-3-15, 30-3-16, 30-3-17, 30-3-18, 30-3-19, 30-3-20, 30-3-21, and 30-3-22, Utah Code Annotated 1953, are enacted to read as follows:

30-3-11. Declaration of Public Policy—Preservation of Marriages — Measures to Preserve.

It is the declared public policy of the State of Utah to maintain desirable marital and family relationships, and therefore to take reasonable measures to preserve marriages, particularly where minor children are involved, in the interest of strengthening the family life foundation of our society and in reducing the economic and social costs to the state resulting from broken homes.

It is the purpose of this act to preserve the rights of children and spouses in all domestic relations cases, to make competent counseling and investigative service available to the district courts in handling divorce and all other domestic relations cases.

30-3-12. District Courts—Family Counseling Powers.

Each district court of the respective judicial districts while sitting in matters of divorce, annulment, separate maintenance, child custody in connection therewith and child custody in habeas corpus proceedings, alimony, support, and adoptions, shall exercise the family counseling powers conferred by this act.

30-3-13. Appointment of Domestic Relations Counselors.

In each of the several judicial districts, or in such combination of districts as shall be agreed upon by the judges thereof, the judge or judges of such district or combination of districts shall appoint from an eligible list established in accordance with this act one or more domestic relations counselors and such other persons as assistants and clerks as may be deemed necessary, to serve during the pleasure of the appointing power.

30-3-14. Determination of Location of Offices of Domestic Relations Counselors—Salaries—Duties of Department of Public Welfare.

It shall be the duty of the state department of public welfare with the advice and consent of the district court or courts to be served to determine the location of principal offices of domestic relations counselors, assistants, and clerks, to fix the salaries of such persons in accordance with standards established by the department of finance and with the advice and consent of the district court or courts to be served; to prescribe the qualifications of such persons, and to provide for the establishment of an eligible list for appointment to such positions through examinations conducted by the merit system council. The state department of public welfare shall pay the salaries of such persons, and provide necessary equipment, offices, supplies, forms, and other incidentals from funds available to it for this purpose. To this end the state department of public welfare is authorized to expend any funds appropriated to it.

30–3–15. Duties of Domestic Relations Counselors.

Domestic relations counselors shall, when directed by the judge of any district court, perform the following duties in domestic relations cases and such other duties as any judge of the district court may assign to them:

1. Promptly receive all signed requests for counseling services for the purpose of disposing of them pursuant to this act.

2. Investigate the facts upon which to base warrants, subpoenas, orders or other court directions in proceedings filed in the district court.

3. When a complaint has been filed, and when either party requests the same, or when minor children are involved, interview and counsel each plaintiff and, when feasible and desirable, each defendant, or confer with both jointly, for the purpose of reconciling the differences between them, and may make recommendations to the judge of the district court. Upon the failure or refusal of either party to participate in such an interview or conference and after such party having had written notice to do so the court may, either on its own motion or the motion of the domestic relations counselor or any interested person, order such party to appear at a time and place certain for such interview or conference, and the court may enforce this order in the same manner in which other orders are enforced.

4. Upon request of a district court judge, make post-divorce studies of problems arising in connection with child custody, support and visitation, give assistance to the parties in the enforcement of support orders, and cause such reports to be made, such statistics to be compiled, and such records to be kept as the judge of the court may direct.

5. Counsel husband or wife, or both, without fee and without the filing of a complaint for divorce, annulment or separate maintenance if they have marital difficulties which may lead to a termination of the marriage relation when a signed request for such services has been made of the domestic relations counselor.

30–3–16. Forms for Request for Counseling to be Furnished by Department of Public Welfare.

The state department of public welfare shall provide the clerk of the district court with blank forms approved by the court which may be used by any spouse in making a signed request for informal counseling services.

30–3–17. Counseling by Judge — Authority to Require Appearance — Recommendations.

The judge of a district court may counsel either spouse or both, and may in his discretion require one or both of them to appear before him, or may recommend the aid of a physician, psychiatrist, psychologist, social service worker or other specialists or scientific expert, or the pastor, bishop or presiding officer of any religious denomination to which the parties may belong.

30–3–18. No Hearings for Decree of Divorce to be Held for Ninety Days After Filing of Complaint—Interim Orders—Counseling Services not to be Construed as Condonation.

Unless the court, for good cause shown and set forth in the findings, otherwise orders, no hearing for decree of divorce shall be held by the

court until ninety days shall have elapsed from the filing of the complaint, provided the court may make such interim orders as may be just and equitable.

The use of counseling services provided under this act shall not be construed as a condonation on the part of either spouse of acts that may constitute grounds for divorce.

30-3-19. Counseling to be Private—Confidential — Inadmissible in Proceedings — Requests for Counseling Confidential.

All counseling proceedings, interviews or conferences shall be held in private. All communications verbal or written, from the parties to the judge or domestic relations counselor in a counseling or conciliation proceeding shall be deemed to be made to such officer in official confidence within the meaning of section 78-24-8, Utah Code Annotated, 1953 and shall not be admissible or usable for any purpose in any divorce hearing or any other proceeding. Signed requests for informal counseling services and any other papers or records relating thereto shall be confidential.

30-3-20. Files May be Sealed—Orders to Protect Privacy.

Whenever a judge of a district court deems publication of any matter before the court contrary to public policy or injurious to the interests of children or to the public morals, he may by order seal the files in the matter and make such other orders to protect the privacy of the parties as he deems proper and necessary.

30-3-21. Study of Financial Status by Domestic Relations Counselor —Verified Report — Access to Report by Either Party or Counsel — Examination of Domestic Relations Counselor.

In order to assist the court in making equitable orders in relation to the support and custody of children, the domestic relations counselor, in all cases involving minor children and when so directed by the court, shall make a study of the family relations, earning ability, and financial status of the parties, and other factors pertinent to the custody, support and general welfare of the children, and shall file a verified report of such study not later than 10 days before the date set for the divorce or separate maintenance hearing unless the time be shortened by order of the court. The report of the domestic relations counselor shall be made available to either party or his counsel; and the domestic relations counselor who made the report may be examined by either or both parties at the hearing.

The judge may call the domestic relations counselor, the parties, and other persons as witnesses. The report or any portion thereof may be received in evidence if no objection is raised to the relevancy, competency, or materiality thereof by either party or his counsel. The report shall be kept in a confidential file not open to inspection except by the court, the parties and their attorneys of record.

30-3-22. Delinquent Alimony and Support Payments—Clerk to Report to County Attorney—Duty of County Attorney to Enforce Payment.

Whenever the court shall have ordered payment of alimony, support money or both paid to the clerk of the court and the person or persons

for whose benefit such payments have been ordered are recipient of public assistance, or, thereafter become recipient of public assistance, and any of such payments shall have been delinquent for a period in excess of thirty days, the clerk of the court shall notify the county attorney of such fact.

It shall be the duty of the county department of public welfare to assist the clerk of the court and the county attorney in performing their duties as herein provided.

Upon receipt of such notice, as herein provided, the county attorney shall then take appropriate measures to cause the orders of the court to be enforced.

For the purpose of carrying out his duties under this section the county attorney is authorized to institute contempt proceedings on benalf of the party to whom the alimony or support money has been awarded in cases when such parties are recipients of public welfare, in addition to or as an alternative to other legal process available to him.

Approved March 16, 1957.

INSURANCE

CHAPTER 56

H. B. No. 123. (Passed March 14, 1957. In effect January 1, 1958.)

UNIFORM ACCIDENT AND SICKNESS POLICY

An Act Relating to Uniform Individual Accident and Sickness Policy Provisions; Providing for a Uniform Accident and Sickness Policy; Repealing all Laws in Conflict Herewith; Penalty for Violation; and Effective Date.

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

Section 1. Definitions.

The term "policy of accident and sickness insurance" as used herein includes any policy or contract covering insurance against loss resulting from sickness or from bodily injury or death by accident, or both.

Section 2. Contents of Policy—Issuance.

(1) No policy of individual accident and sickness insurance shall be delivered or issued for delivery to any person in this state unless:

(a) the entire money and other considerations therefor are expressed therein; and

(b) the time at which the insurance takes effect and terminates is expressed therein; and

(c) it purports to insure only one Person, except that a policy may insure, originally or by subsequent amendment, upon the application of an adult member of a family who shall be deemed the policy holder, any two or more eligible members of that family, including husband, wife, dependent children or any children under a specified age which shall not exceed nineteen years and any other person dependent upon the policyholder; and

(d) the style, arrangement and over-all appearance of the policy give no undue prominence to any portion of the text, and unless every printed portion of the text of the policy and of any endorsements or attached papers is plainly printed in light-faced type of a style in general use, the size of which shall be uniform and not less than ten-point with a lower-case unspaced alphabet length not less than one hundred and twenty-point (the "text" shall include all printed matter except the name and address of the insurer, name or title of the policy, the brief description, if any, and captions and sub-captions) ; and

(e) The exceptions and reductions of indemnity are set forth in the policy and, except those which are set forth in this act, are printed, at the insurer's option, either included with the benfit provision to which they apply, or under an appropriate caption such as "EXCEPTIONS," or "EXCEPTIONS AND REDUCTIONS," provided that if an exception or reduction specifically applies only to a particular benefit of the policy, a statement of such exception or reduction shall be included with the benefit provision to which it applies; and

(f) each such form including riders and endorsements, shall be identified by a form number in the lower left-hand corner of the first page thereof; and

(g) it contains no provision purporting to make any portion of the charter, rules, constitution, or by-laws, of the insurer a part of the policy unless such portion is set forth in full in the policy, except in the case of the incorporation of, or reference to, a statement of rates or classification of risks, or short-rate table filed with the commissioner.

(2) If any policy is issued by an insurer domiciled in this state for delivery to a person residing in another state, and if the official having responsibility for the administration of the insurance laws of such other state shall have advised the commissioner that any such policy is not subject to approval or disapproval by such official, the commissioner may by ruling require that such policy meet the standards set forth in this act.

Section 3. Contents of Policy—Use of Statutory Wording—Different Wording Approved by Commissioner.

Except as provided in section 28 of this act each such policy delivered or issued for delivery to any person in this state shall contain the provisions specified in this act in the words in which the same appear in this act; *provided, however*, that the insurer may, at its option, substitute for one or more of such provisions corresponding provisions of different wording approved by the commissioner which are in each instance not less favorable in any respect to the insured or the beneficiary. Such provisions shall be preceded individually by the captions appearing in this act or, at the option of the insurer, by such appropriate individual or group captions or sub-captions as the commissioner may approve.

Section 4. Provisions of Policy — Entire Contract Provision.

A provision as follows: ENTIRE CONTRACT; CHANGES: This policy, including the endorsements and the attached papers, if any, constitutes the entire contract of insurance. No change in this policy shall be valid until approved by an executive officer of the insurer and unless such approval be endorsed hereon or attached hereto. No agent has authority to change this policy or to waive any of its provisions.

Section 5. Provisions of Policy—Time Limit on Certain Defenses Provision.

A provision as follows: TIME LIMIT ON CERTAIN DEFENSES: After three years from the date of issue of this policy no misstatements, except fraudulent misstatements, made by the applicant in the application for such policy shall be used to void the policy or to deny a claim for loss incurred or disability (as defined in the policy) commencing after the expiration of such three year period.

The foregoing policy provision shall not be so construed as to affect any legal requirement for avoidance of a policy or denial of a claim during such initial three year period, nor to limit the application of sections 16, 17, 18, 19, 20, and 21 in the event of misstatement with respect to age or occupation or other insurance. A policy which the insured has the right to continue in force subject to its terms by the timely payment of premium until at least age 50 or, in the case of a policy issued after age 44, for at least five years from its date of issue, may contain in lieu of the foregoing the following provision (from which the clause in parentheses may be omitted at the insurer's option) under the caption "INCONTESTABLE":

After this policy has been in force for a period of three years during the lifetime of the insured (excluding any period during which the insured is disabled), it shall become incontestable as to the statements contained in the application.

No claim for loss incurred or disability (as defined in the policy) commencing after three years from the date of issue of this policy shall be reduced or denied on the grounds that a disease or physical condition not excluded from coverage by name or specific description effective on the date of loss had existed prior to the effective date of coverage of this policy.

Section 6. Provision of Policy—Grace Period Provision.

A provision as follows: GRACE PERIOD: a grace period of..... (insert a number not less than 7 for weekly premium policies, 10 for monthly premium policies and 31 for all other policies) days will be granted for the payment of each premium falling due after the first premium, during which grace period the policy shall continue in force.

A policy which contains a cancellation provision may add, at the end of the above provision, subject to the right of the insurer to cancel in accordance with the cancellation provision hereof.

A policy in which the insurer reserves the right to refuse any renewal shall have, at the beginning of the above provision, unless not less than five days prior to the premium due date the insurer has delivered to the insured or has mailed to his last address as shown by the records of the insurer written notice of its intention not to renew this policy beyond the period for which the premium has been accepted.

Section 7. Provision of Policy — Reinstatement Provision.

A provision as follows: REINSTATEMENT: If any renewal premium be not paid within the time granted the insured for payment, a subsequent acceptance of premium by the insurer or by any agent duly authorized by the insurer to accept such premium, without requiring in connection therewith an application for reinstatement, shall reinstate the

policy; *provided, however,* that if the insurer or such agent requires an application for reinstatement and issues a conditional receipt for the premium tendered, the policy will be reinstated upon approval of such application by the insurer or, lacking such approval, upon the forty-fifth day following the date of such conditional receipt unless the insurer has previously notified the insured in writing of its disapproval of such application. The reinstated policy shall cover only loss resulting from such accidental injury as may be sustained after the date of reinstatement and loss due to such sickness as may begin more than ten days after such date. In all other respects the insured and insurer shall have the same rights therunder as they had under the policy immediately before the due date of the defaulted premium, subject to any provisions endorsed hereon or attached hereto in connection with the reinstatement. Any premium accepted in connection with a reinstatement shall be applied to a period for which premium has not been previously paid, but not to any period more than sixty days prior to the date of reinstatement.

The last sentence of the above provision may be omitted from any policy which the insured has the right to continue in force subject to its terms by the timely payment of premiums until at least age 50, or, in the case of a policy issued after age 44, for at least five years from its date of issue.

Section 8. Provision of Policy—Notice of Claim Provision.

A provision as follows: NOTICE OF CLAIM: Written notice of claim must be given to the insurer within twenty days after the occurrence or commencement of any loss covered by the policy, or as soon thereafter as is reasonably possible. Notice given by or on behalf of the insured or the beneficiary to the insurer at ..... (insert the location of such office as the insurer may designate for the purpose), or to any authorized agent of the insurer, with information sufficient to identify the insured, shall be deemed notice to the insurer.

In a policy providing a loss-of-time benefit which may be payable for at least two years, an insurer may at its option insert the following betwene the first and second sentences of the above provision: "Subject to the qualifications set forth below, if the insured suffers loss of time on account of disability for which indemnity may be payable for at least two years, he shall, at least once in every six months after having given notice of claim, give to the insurer notice of continuance of said disability, except in the event of legal incapacity. The period of six months following any filing of proof by the insured or any payment by the insurer on account of such claim or any denial of liability in whole or in part by the insurer shall be excluded in applying this provision. Delay in the giving of such notice shall not impair the insured's right to any indemnity which would otherwise have accrued during the period of six months preceding the date on which such notice is actually given."

Section 9. Provision of Policy — Claim Forms Provision.

A provision as follows: CLAIM FORMS: The insurer, upon receipt of a notice of claim, will furnish to the claimant such forms as are usually furnished by it for filing proofs of loss. If such forms are not furnished within fifteen days after the giving of such notice the claimant shall be deemed to have complied with the requirements of this policy as

to proof of loss upon submitting, within the time fixed in the policy for filing proofs of loss, written proof covering the occurrence, the character and the extent of the loss for which claim is made.

Section 10. Provision of Policy — Proofs of Loss Provision.

A provision as follows: PROOFS OF LOSS: Written proof of loss must be furnished to the insurer at its said office in case of claim for loss for which this policy provides any periodic payment contingent upon continuing loss within ninety days after the termination of the period for which the insurer is liable and in case of claim for any other loss within ninety days after the date of such loss. Failure to furnish such proof within the time required shall not invalidate nor reduce any claim if it was not reasonably possible to give proof within such time, provided such proof is furnished as soon as reasonably possible and in no event, except in the absence of legal capacity, later than one year from the time proof is otherwise required.

Section 11. Provision of Policy — Time of Payment of Claims Provision.

A provision as follows: TIME OF PAYMENT OF CLAIMS: Indemnities payable under this policy for any loss other than loss for which policy provides any periodic payment will be paid immediately upon receipt of due written proof of such loss. Subject to due written proof of loss, all accrued indemnities for loss for which this policy provides periodic payment will be paid ..... (insert period for payment which must not be less frequently than monthly) and any balance remaining unpaid upon the termination of liability will be paid immediately upon receipt of due written proof.

Section 12. Provision of Policy — Payment of Claims Provision.

A provision as follows: PAYMENT OF CLAIMS: Indemnity for loss of life will be payable in accordance with the beneficiary designation and the provisions respecting such payment which may be prescribed herein and effective at the time of payment. If no such designation or provision is then effective, such indemnity shall be payable to the estate of the insured. Any other accrued indemnities unpaid at the insured's death may, at the option of the insurer, be paid either to such beneficiary or to such estate. All other indemnities will be payable to the insured.

The following provisions, or either of them, may be included with the foregoing provision at the option of the insurer:

If any indemnity of this policy shall be payable to the estate of the insured, or to an insured or beneficiary who is a minor or otherwise not competent to give a valid release, the insurer may pay such indemnity, up to an amount not exceeding $..... (insert an amount which shall not exceed $1000), to any relative by blood or connection by marriage of the insured or beneficiary who is deemed by the insurer to be equitably entitled thereto. Any payment made by the insurer in good faith pursuant to this provision shall fully discharge the insurer to the extent of such payment.

Subject to any written direction of the insured in the application or otherwise all or a portion of any indemnities provided by this policy on account of hospital, nursing, medical, or surgical services may, at the

insurer's option and unless the insured requests otherwise in writing not later than the time of filing proofs of such loss, be paid directly to the hospital or person rendering such services; but it is not required that the service be rendered by a particular hospital or person.

Section 13. Provision of Policy — Physical Examination and Autopsy Provision.

A provision as follows: PHYSICAL EXAMINATION AND AUTOPSY: The insurer at its own expense shall have the right and opportunity to examine the person of the insured when and as often as it may reasonably require during the pendency of a claim hereunder and to make an autopsy in case of death where it is not forbidden by law.

Section 14. Provision of Policy — Legal Actions Provision.

A provision as follows: LEGAL ACTIONS: No action at law or in equity shall be brought to recover on this policy prior to the expiration of sixty days after written proof of loss has been furnished in accordance with the requirements of this policy. No such action shall be brought after the expiration of three years after the time written proof of loss is required to be furnished.

Section 15. Provision of Policy — Change of Beneficiary Provision.

A provision as follows: CHANGE OF BENEFICIARY: Unless the insured makes an irrevocable designation of beneficiary, the right to change of beneficiary is reserved to the insured and the consent of the beneficiary or beneficiaries shall not be requisite to surrender or assignment of this policy or to any change of beneficiary or beneficiaries, or to any other changes in this policy.

The first clause of this provision, relating to the irrevocable designation of beneficiary, may be omitted at the insurer's option.

Section 16. Matters Required to be Stated in Language of Policy or Required to be Stated in Language Approved by Commissioner.

Except as provided in section 28 of this act, no such policy delivered or issued for delivery to any person in this state shall contain provisions respecting the matters set forth below unless such provisions are in the words in which the same appear in this act; *provided, however,* that the insurer may, at its option, use in lieu of any such provision a corresponding provision of different wording approved by the commissioner which is not less favorable in any respect to the insured or the beneficiary. Any such provision contained in the policy shall be preceded individually by the appropriate caption appearing in this act or, at the option of the insurer, by such appropriate individual or group captions or subcaptions as the commissioner may approve.

Section 17. Provision of Policy — Change of Occupation Provision.

A provision as follows: CHANGE OF OCCUPATION: If the insured be injured or contract sickness after having changed his occupation to one classified by the insurer as more hazardous than that stated in this policy or while doing for compensation anything pertaining to an occupation so classified, the insurer will pay only such portion of the indemnities provided in this policy as the premium paid would have purchased at the rates and within the limits fixed by the insurer for

such more hazardous occupation. If the insured changes his occupation to one classified by the insurer as less hazardous than that stated in this policy, the insurer, upon receipt of proof of such change of occupation, will reduce the premium rate accordingly, and will return the excess pro-rata unearned premium from the date of change of occupation or from the policy anniversary date immediately preceding receipt of such proof, whichever is the more recent. In applying this provision, the classification of occupational risk and the premium rates shall be such as have been last filed by the insurer prior to the occurrence of the loss for which the insurer is liable or prior to date of proof of change in occupation with the state official having supervision of insurance in the state where the insured resided at the time this policy was issued; but if such filing was not required, then the classification of occupational risk and the premium rates shall be those last made effective by the insurer in such state prior to the occurrence of the loss or prior to the date of proof of change of occupation.

Section 18. Provision of Policy — Misstatement of Age Provision.

A provision as follows: MISSTATEMENT OF AGE: If the age of the insured has been misstated, all amounts payable under this policy shall be such as the premium paid would have purchased at the correct age.

Section 19. Provision of Policy — Other Insurance in this Insurer Provision.

A provision as follows: OTHER INSURANCE IN THIS INSURER: If an accident or sickness or accident and sickness policy or policies previously issued by the insurer to the insured be in force concurrently herewith, making the aggregate indemnity for ..... (insert type of coverage or coverages) in excess of $..... (insert maximum limit of indemnity or indemnities) the excess insurance shall be void and all premiums paid for such excess shall be returned to the insured or to his estate.

or, in lieu thereof: Insurance effective at any one time on the insured under a like policy or policies in this insurer is limited to the one such policy elected by the insured, his beneficiary or his estate, as the case may be, and the insurer will return all premiums paid for all other such policies.

Section 20. Provision of Policy — Insurance with Other Insurers Provision.

A provision as follows: INSURANCE WITH OTHER INSURERS: If there be other valid coverage, not with this insurer, providing benefits for the same loss on a provision of service basis or on an expense incurred basis and of which this insurer has not been given written notice prior to the occurrence of commencement of loss, the only liability under any expense incurred coverage of this policy shall be for such proportion of the loss as the amount which would otherwise have been payable hereunder plus the total of the like amounts under all such other valid coverages for the same loss of which this insurer had notice bears to the total like amounts under all valid coverages for such loss, and for the return of such portion of the premiums paid as shall exceed the pro-rata portion for the amount so determined. For the purpose of

applying this provision when other coverage is on a provision of service basis, the like amount of such other coverage shall be taken as the amount which the services rendered would have cost in the absence of such coverage.

If the foregoing policy provision is included in a policy which also contains the next following policy provision there shall be added to the caption of the foregoing provision the phrase "EXPENSE INCURRED BENEFITS." The insurer may, at its option, include in this provision a definition of other valid coverage, approved as to form by the commissioner, which definition shall be limited in subject matter to coverage provided by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, and by hospital or medical service organizations, and to any other coverage the inclusion of which may be approved by the commissioner. In the absence of such definition such term shall not include group insurance, automobile medical payments insurance, or coverage provided by hospital or medical service organizations or by union welfare plans or employer or employee benefit organizations. For the purpose of applying the foregoing policy provision with respect to any insured, any amount of benefit provided for such insured pursuant to any compulsory benefit statute (including any workmen's compensation or employer's liability statute) whether provided by a governmental agency or otherwise shall in all cases be deemed to be "other valid coverage" of which the insurer has had notice. In applying the foregoing policy provision no third party liability coverage shall be included as "other valid coverage."

Section 21. Provision of Policy — Insurance with Other Insurers Provision.

A provision as follows: INSURANCE WITH OTHER INSURERS: If there be other valid coverage, not with this insurer, providing benefits for the same loss on other than an expense incurred basis and of which this insurer has not been given written notice prior to the occurrence or commencement of loss, the only liability for such benefits under this policy shall be for such proportion of the indemnities otherwise provided hereunder for such loss as the like indemnities of which the insurer had notice (including the indemnities under this policy) bear to the total amount of all like indemnities for such loss, and for the return of such portion of the premium paid as shall exceed the pro-rata portion for the indemnities thus determined.

If the foregoing policy provision is included in a policy which also contains the next preceding policy provision there shall be added to the caption of the foregoing provision the phrase "—OTHER BENEFITS." The insurer may, at its option, include in this provision a definition of "other valid coverage," approved as to form by the commissioner, which definition shall be limited in subject matter to coverage provided by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, and to any other coverage the inclusion of which may be approved by the commissioner. In the absence of such definition such term shall not include group insurance, or benefits provided by union welfare plans or by employer or employee benefit organizations.

For the purpose of applying the foregoing policy provision with respect to any insured, any amount of benefit provided for such insured pursuant to any compulsory benefit statute (including any workmen's compensation or employer's liability statute) whether provided by a governmental agency or otherwise shall in all cases be deemed to be "other valid coverage" of which the insurer has had notice. In applying the foregoing policy provision no third party liability coverage shall be included as "other valid coverage."

Section 22. Provision of Policy — Relation of Earnings to Insurance Provision.

A provision as follows: RELATION OF EARNINGS TO INSURANCE: If the total monthly amount of loss of time benefits promised for the same loss under all valid loss of time coverage upon the insured, whether payable on a weekly or monthly basis, shall exceed the monthly earnings of the insured at the time disability commenced or his average monthly earnings for the period of two years immediately preceding a disability for which claim is made, whichever is greater, the insurer will be liable only for such proportionate amount of such benefits under this policy as the amount of such monthly earnings or such average monthly earnings of the insured bears to the total amount of monthly benefits for the same loss under all such coverage upon the insured at the time such disability commences and for the return of such part of the premiums paid during such two years as shall exceed the pro-rata amount of the premiums for the benefits actually paid hereunder; but this shall not operate to reduce the total monthly amount of benefits payable under all such coverage upon the insured below the sum of two hundred dollars or the sum of the monthly benefits specified in such coverages, whichever is the lesser, nor shall it operate to reduce benefits other than those payable for loss of time.

The foregoing policy provision may be inserted only in a policy which the insured has the right to continue in force subject to its terms by the timely payment of premiums until at least age 50 or, in the case of a policy issued after age 44, for at least five years from its date of issue. The insurer may, at its option, include in this provision a definition of "valid loss of time coverage," approved as to form by the commissioner, which definition shall be limited in subject matter to coverage provided by governmental agencies or by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, or to any other coverage the inclusion of which may be approved by the commissioner or any combination of such coverages. In the absence of such definition such term shall not include any coverage provided for such insured pursuant to any compulsory benefit statute (including any workmen's compensation or employer's liability statute), or benefits provided by union welfare plans or by employer or employee benefit organizations.

Section 23. Provision of Policy — Unpaid Premium Provision.

A provision as follows: UNPAID PREMIUM: Upon the payment of a claim under this policy, any premium then due and unpaid or cevered by any note or written order may be deducted therefrom.

Section 24. Provision of Policy — Cancellation.

A provision as follows: CANCELLATION: The insurer may cancel this policy at any time by written notice delivered to the insured or mailed to his last address as shown by the records of the insurer, stating when, not less than five days thereafter, such cancellation shall be effective; and after the policy has been continued beyond its original term the insured may cancel this policy at any time by written notice delivered or mailed to the insurer, effective upon receipt or on such later date as may be specified in such notice. In the event of cancellation, the insurer will return promptly the unearned portion of any premium paid. If the insured cancels, the earned premium shall be computed by the use of the short-rate table last filed with the state official having supervision of insurance in the state where the insured resided when the policy was issued. If the insurer cancels, the earned premium shall be computed pro-rata. Cancellation shall be without prejudice to any claim originating prior to the effective date of cancellation.

Section 25. Provision of Policy — Conformity With State Statutes Provision.

A provision as follows: CONFORMITY WITH STATE STATUTES: Any provision of this policy which, on its effective date, is in conflict with the statutes of the state in which the insured resides on such date is hereby amended to conform to the minimum requirements of such statutes.

Section 26. Provision of Policy — Illegal Occupation.

A provision as follows: ILLEGAL OCCUPATION: The insurer shall not be liable for any loss to which a contributing cause was the insured's commission of or attempt to commit a felony or to which a contributing cause was the insured's being engaged in an illegal occupation.

Section 27. Provision of Policy — Intoxicants and Narcotics Provision.

A provision as follows: INTOXICANTS AND NARCOTICS: The insurer shall not be liable for any loss sustained or contracted in consequence of the insured's being intoxicated or under the influence of any narcotic unless administered on the advice of a physician.

Section 28. Provisions of Act Inconsistant or Inapplicable to Particular Coverage — Approval of Commissioner for Modification — Provisions to be Printed Consecutively.

If any provision of this act is in whole or in part inapplicable to or inconsistent with the coverage provided by a particular form of policy the insurer, with the approval of the commissioner, shall omit from such policy any inapplicable provision or part of a provision, and shall modify any inconsistent provision or part of the provision in such manner as to make the provision as contained in the policy consistent with the coverage provided by the policy.

The provisions which are set forth in the sections preceding this section, or any corresponding provisions which are used in lieu thereof in accordance with such sections, shall be printed in the consecutive order of the provisions in such sections or, at the option of the insurer, any such provision may appear as a unit in any part of the policy, with other provisions to which it may be logically related, provided the

resulting policy shall not be in whole or in part unintelligible, uncertain, ambiguous, abstruse, or likely to mislead a person to whom the policy is offered, delivered or issued.

Section 29. Construction of "Insured."

The word "insured," as used in this act, shall not be construed as preventing a person other than the insured with a proper insurable interest from making application for and owning a policy covering the insured or from being entitled under such a policy to any indemnities, benefits and rights provided therein.

Section 30. Policy of Foreign or Alien Insurer to be Not Less Favorable.

Any policy of a foreign or alien insurer, when delivered or issued for delivery to any person in this state, may contain any provision which is not less favorable to the insured or the beneficiary than the provisions of this act and which is prescribed or required by the law of the state under which the insurer is organized.

Any policy of a domestic insurer may, when issued for delivery in any other state or country, contain any provision permitted or required by the laws of such other state or country.

Section 31. Commissioner to Adopt Rules and Regulations.

The commissioner may make such reasonable rules and regulations concerning the procedure for the filing or submission of policies subject to this act as are necessary, proper or advisable to the administration of this act. This provision shall not abridge any other authority granted the commissioner by law.

Section 32. No Policy Provisions Not Subject to Act to be Less Favorable to Insured Than Provisions Subject to Act — Validity of Policy Issued in Violation of Act.

(1) No policy provision which is not subject to section 3 of this act shall make a policy, or any portion thereof, less favorable in any respect to the insured or the beneficiary than the provisions thereof which are subject to this act. (2) A policy delivered or issued for delivery to any person in this state in violation of this act shall be held valid but shall be construed as provided in this act. When any provision in a policy subject to this act is in conflict with any provision of this act, the rights, duties and obligations of the insurer ,the insured and the beneficiary shall be governed by the provisions of this act.

Section 33. Insured Bound only by Statements in Application When Attached to Policy — Policy not to be Altered Without Consent of Insured — Effect of False Statement.

(1) The insured shall not be bound by any statement made in an application for a policy unless a copy of such application is attached to or endorsed on the policy when issued as a part thereof. If any such policy delivered or issued for delivery to any person in this state shall be reinstated or renewed, and the insured or the beneficiary or assignee of such policy shall make written request to the insurer for a copy of the application, if any, for such reinstatement or renewal, the insurer shall within fifteen days after the receipt of such request at its home office or any branch office of the insurer, deliver or mail to the person making

such request, a copy of such application. If such copy shall not be so delivered or mailed, the insurer shall be precluded from introducing such application as evidence in any action or proceeding based upon or involving such policy or its reinstatement or renewal.

(2) No alteration of any written application for any such policy shall be made by any person other than the applicant without his written consent, except that insertions may be made by the insurer, for administrative purposes only, in such manner as to indicate clearly that such insertions are not to be ascribed to the applicant.

(3) The falsity of any statement in the application for any policy covered by this act may not bar the right to recovery thereunder unless such false statement materially affected either the acceptance of the risk or the hazard assumed by the insurer.

Section 34. Certain Acts Not to Operate as Waiver by Insurer.

The acknowledgment by any insurer of the receipt of notice given under any policy covered by this act, or the furnishing of forms for filing proofs of loss, or the acceptance of such proofs, or the investigation of any claim thereunder shall not operate as a waiver of any of the rights of the insurer in defense of any claim arising under such policy.

Section 35. Provisions Relating to Age of Insured—Coverage—Refund.

If any such policy contains a provision establishing, as an age limit or otherwise, a date after which the coverage provided by the policy will not be effective, and if such date falls within a period for which premium is accepted by the insurer or if the insurer accepts a premium after such date, the coverage provided by the policy will continue in force subject to any right of cancellation until the end of the period for which premium has been accepted. In the event the age of the insured has been misstated and if, according to the correct age of the insured, the coverage provided by the policy would not have become effective, or would have ceased prior to the acceptance of such premium or premiums, then the liability of the insurer shall be limited to the refund, upon request, of all premiums paid for the period not covered by the policy.

Section 36. Certain Insurance Not Affected by this Act.

Nothing in this act shall apply to or affect (1) any policy of workmen's compensation insurance or any policy of liability insurance with or without supplementary coverage therein; or (2) any policy or contract of reinsurance; or (3) any blanket or group policy of insurance; (4) life insurance, endowment or annuity contracts, or contracts supplemental thereto which contain only such provisions relating to accident and sickness insurance as (a) provide additional benefits in case of death or dismemberment or loss of sight by accident, or as (b) operate to safeguard such contracts against lapse, or to give a special surrender value or special benefit or an annuity in the event that the insured or annuitant shall become totally and permanently disabled, as defined by the contract or supplemental contract.

Section 37. Violation — Penalty.

Any person, partnership or corporation willfully violating any provision of this act or order of the commissioner made in accordance with this act, shall forfeit to the people of the state a sum not to exceed

$100.00 for each such violation, which may be recovered by a civil action. The commissioner may also suspend or revoke the license of any insurer or agent for any such willful violation.

Section 38. Review of Orders or Decisions of Commissioner — Appeal to District Court.

Any order or decision of the commissioner under this act shall be subject to review by appeal to the district court at the instance of any party in interest. The filing of the appeal shall operate as a stay of any such order or decision until the court directs otherwise. The court may review all the facts, and in disposing of the issue before it, may modify, affirm or reverse the order or decision of the commissioner in whole or in part.

Section 39. Inconsistent Laws Repealed.

All laws or parts of laws inconsistent with the provisions of this act are hereby repealed.

Section 40. Effective Date.

This act shall take effect on the 1st of January 1958. A policy, rider or endorsement, which could have been lawfully used or delivered or issued for delivery to any person in this state immediately before the effective date of this act may be used or delivered or issued for delivery to any such person until January 1, 1958, without being subject to the provisions of this act.

Approved March 20, 1957.

CHAPTER 57

S. B. No. 237. (Passed March 14, 1957. In effect May 14, 1957.)

AGENTS AND BROKERS — TEMPORARY LICENSING

An Act Amending Sections 31-17-48, Utah Code Annotated 1953, Relating to Temporary License of Insurance Agents or Brokers; Discontinuing Temporary Licensing Before Examination of Life Insurance Salesmen.

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

Section 1. Section Amended.

(1) Section 31-17-48, Utah Code Annotated 1953, is amended to read as follows:

31-17-48. Temporary Licenses — To Whom Issuable — Eligibility — Fee.

The commissioner may issue an agent's or broker's temporary license in the following circumstances:

1. to the surviving spouse or next of kin or to the administrator or executor of a licensed agent or broker becoming deceased;

2. to the spouse, next of kin, employee, or legal guardian of a licensed agent or broker becoming disabled because of sickness, insanity or injury;

3. to a surviving member of a firm or surviving officer or employee of a corporation licensed as agent or broker upon the death of an indi-

vidual designated in the firm or corporation's license to exercise powers thereunder.

(2) An individual to be eligible for any such temporary license must be qualified for a permanent license except as to experience, training, or the taking of any examination.

(3) Any fee paid to the commissioner for issuance of a temporary license as provided in section 31-14-1 shall be credited toward the fee required for a permanent license which is issued to replace the temporary license prior to the expiration of such temporary license.

Approved March 22, 1957.

CHAPTER 58

S. B. No. 235 (Passed March 14, 1957. In effect May 14, 1957.)

GROUP LIFE INSURANCE

An Act Amending Section 31-23-1, Utah Code Annotated 1953, Relating to Group Life Insurance by Decreasing the Coverage from 25 Employees to 10 Employees.

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

Section 1. Section Amended.

Section 31-23-1, Utah Code Annotated 1953, is amended to read as follows:

31-23-1. Definition and Nature — Coverage — Payment of Premium — "Employer" Defined.

Group life insurance is declared to be that form of life insurance covering not less than ten employees with or without medical examination written under a policy issued to the employer, the premium on which is to be paid by the employer or by the employer and the employees jointly, and insuring only all of his employees, or all of any class or classes thereof determined by conditions pertaining to the employment, for amounts of insurance based upon some plan which will preclude individual selection, for the benefit of persons other than the employer; *provided,* that when the premium is to be paid by the employer and employee jointly and the benefits of the policy are offered to all eligible employees, not less than seventy-five per centum of such employees may be so insured. The term employer as used in this selection shall be construed to include counties, cities, cities and counties, incorporated towns, school districts, and other political subdivisions of this state, and such subdivisions may, in order to promote the better efficiency of its employees, insure its employees, or any class or classes thereof, under a policy or policies, of group insurance covering life, health, or accident insurance for such employees, and may pay, or authorize to be paid, out of the corporate revenue of such political subdivisions, the premiums required from time to time to maintain such group insurance in force.

Approved March 22, 1957.

INTOXICATING LIQUORS

CHAPTER 59

H. B. No. 20. (Passed February 27, 1957. In effect May 14, 1957.)

LIQUOR PERMITS — FEES

An Act Amending Sections 32-2-2 and 32-2-15, Utah Code Annotated 1953, Pertaining to Liquor Permits; Providing that the Fee for Permits be Increased.

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

Section 1. Section Amended.
Section 32-2-2, Utah Code Annotated 1953, is amended to read:

32–2–2. Application for Issue of Permits — Classification of Permits.
Upon application in the prescribed form being made to the commission or to any employee authorized by the commission to issue permits accompanied by payment of a fee of one dollar, therefor, and upon the commission or such employee being satisfied that the applicant is entitled to a permit for the purchase of liquor under this act the commission or such employee may issue to the applicant a permit good for one year of the class applied for, as follows:

(a) An "individual permit" in the prescribed form may be granted to any individual of the full age of twenty-one years who is not disqualified under this act, entitling the applicant to purchase liquor in accordance with the terms and provisions of the permit, and the provisions of this act, and the regulations;
Special Permit for Physicians:

(b) A "special permit" in the prescribed form may be granted to a druggist, physician, dentist, or hospital, or to a person engaged within the State in mechanical or manufacturing business, or in scientific pursuits, requiring liquor for use therein, entitling the applicant to purchase liquor for the purpose named in such "special permit" and in accordance with the terms and provisions of such "special permit" and in accordance with the provisions of this act and the regulations;
Special Permit for Ministers:

(c) A "special permit" in the prescribed form may be granted to a priest, minister of the gospel, or any other minister of any religious faith authorized to solemnize marriage in Utah, entitling the applicant to purchase wine for sacramental purposes in accordance with the terms and provisions of such "special permit."

INDUSTRIAL ALCOHOL PERMITS

(d) A "special permit" in the prescribed form may be granted to any person engaged within the state in mechanical or manufacturing business, or in scientific pursuits, requiring alcohol or liquor for use therein, entitling the applicant to purchase from the commission alcohol or liquor for the purpose named in such permit, and in accordance with the provisions of this act, and the regulations.

SPECIAL PERMITS UNDER REGULATIONS

(e) A "special permit" in the prescribed form may be granted when authorized by the regulations, entitling the applicant to purchase liquor for the purpose named in the permit and in accordance with the terms and provisions of such permit, and of this act and the regulations.

Section 2. Section Amended.
Section 32-2-15, Utah Code Annotated 1953, is amended to read:

32–2–15. Issuance of Duplicate Permit.
Any person whose permit has been lost or destroyed may apply to the commission or other official authorized to issue permits, and upon proof of the loss or destruction of the permit, and subject to the conditions contained in the regulations may obtain a duplicate permit in lieu of the permit so lost or destroyed for which duplicate permit a fee of one dollar shall be paid.

Approved March 5, 1957.

INVESTMENTS

CHAPTER 60

S. B. No. 261. (Passed March 14, 1957. In effect May 14, 1957.)

INVESTMENT OF STATE INSURANCE FUNDS

An Act Amending Section 33-1-1, Utah Code Annotated 1953, Relating to Investments; and Providing for State Insurance Fund, State School Fund, Teachers Retirement Fund and Firemen's Pension Fund Monies to be Invested in Obligations or Loans Insured Through the Federal Housing Administration and Veterans Administration of the United States Government.

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

Section 1. Section Amended.
Section 33-1-1, Utah Code Annotated 1953, is amended to read:

33–1–1. Investment in Certain Securities Authorized.
On and after the passage of this act investment by receivers, insurance companies of whatever type or nature, building and loan associations, savings and loan associations and other financial institutions, charitable, educational eleemosynary and public corporations and organizations, municipalities and other public corporations and bodies, mutual assessment insurance companies, mutual benevolent and benefit associations; or investment of funds of any state insurance fund, state sinking fund, state school fund, firemen's relief and pension fund, police pension fund, or other pension fund; or investment by any administrative department, board, commission or officer of the state government, and of any county government, authorized by law to make investments of funds in the custody or under the control of such department, board, commission or officer, school district or township, or the investment by any

private, political or public instrumentality, body, corporation or person of their own funds or funds in their possession in bonds and other obligation of or bonds or obligations guaranteed as to interest and principal by the United States; bonds or debentures issued by any federal home loan bank in accordance with the provisions of the Federal home loan bank act as now or hereafter amended; consolidated federal home loan bank bonds or debentures issued by the federal home loan bank board in accordance with the provisions of the Federal home loan bank act as now or hereafter amended; bonds or debentures issued by the federal savings and loan insurance corporation in accordance with the provisions of Title IV of the national housing act as now or hereafter amended; in shares or accounts of building and loan associations which have insured by the federal savings and loan insurance corporation and shares or accounts of federal savings and loan associations incorporated under the provisions of the home owners loan act of 1933 as now or hereafter amended; which have been insured by the federal savings and loan insurance corporation to the extent to which the withdrawal or repurchasable value of such shares or accounts now are or may hereafter be insured by the federal savings and loan insurance corporation under the acts of Congress of the United States of America now in effect or which may hereafter be enacted, shall be lawful. Notwithstanding any other provision of law, any administrative department, board, commission or officer of the state government, empowered to make investments of the State Insurance Fund, State School Fund, Teachers' Retirement Fund, and Firemen's Pension Fund is hereby authorized to invest said funds in obligations or loans insured by the Federal Housing Administration or Veteran's Administration of the United States Government.

Approved March 22, 1957.

LABOR IN GENERAL

CHAPTER 61

H. B. No. 22 (Passed February 8, 1957. In effect May 14, 1957.)

ASSIGNMENT OF WAGE CLAIMS

An Act Amending Section 34-10-14, Utah Code Annotated 1953, Relating to Powers of Industrial Commission on Assignment of Wage Claims.

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

34-10-14. Section Enacted — Assignment of Wage Claims — Authority to Prosecute Actions.

The industrial commission shall have power and authority to take assignments of wage claims, rights of action for penalties provided by section 34-10-5, mechanics' and other liens of workers and rights of action against sureties, not to exceed $400.00 in the case of any one claim without being bound to any of the technical rules with reference to the validity of such assignments; and shall have power and authority to prosecute actions for the collection of such claims which are valid and enforceable in the courts. The commission shall have power to join

various claimants in one preferred claim or lien, and in case of suit to join them in one cause of action.

Approved February 21, 1957.

LABOR INDUSTRIAL COMMISSION

CHAPTER 62

H. B. No. 77. (Passed March 11, 1957. In effect July 1, 1957.)

WORKMEN'S COMPENSATION BENEFITS

An Act Amending Sections 35-1-43, 35-1-65, 35-1-66, 35-1-67, 35-1-68, 35-1-69, 35-1-81, Utah Code Annotated 1953, as Amended, Relating to Workmen's Compensation Providing for Increased Benefits.

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

Section 1. Sections Amended.

Sections 35-1-43, 35-1-65, 35-1-66, 35-1-67, 35-1-68, 35-1-69, 35-1-81, Utah Code Annotated 1953, as amended, are amended to read:

35-1-43. "Employee," "Workmen," "Operative" Defined.

The words "employee," "workmen," and "operative," as used in this title, shall be construed to mean:

(1) Every elective and appointive officer, and every other person, in the service of the state, or of any county, city, town or school district within the state, serving the state, county, city, town or school district therein under any election or appointment, or under any contract of hire, express or implied, written or oral, including all officers and employees of the state institutions of learning.

(2) Every person, except agricultural laborers and domestic servants, in the service of any "employer" as defined in subdivision (2) of section 35-1-42, who employs one or more workmen or operatives regularly in the same business, or in or about the same establishment, under any contract of hire, express or implied, oral or written, including aliens, and minors whether legally or illegally working for hire, but not including any person whose employment is but casual and not in the usual course of trade, business or occupation of his employer.

(3) All lessees in mines or of mining property and the employees and sublesees of all such lessees shall, unless the lessee provides coverage as an employer under this chapter, be covered for compensation by the lessor under this chapter, and shall, in such event, be subject to this chapter and entitled to its benefits to the same extent as if they were employees of the lessor drawing such wages as are paid employees for similar or substantially similar work; *provided*, that the lessor may deduct from the proceeds of ores mined by the lessees an amount equal to the insurance premium for such type of work.

(4) If the employer is a partnership such employer may elect to include as an "employee" within the provisions of this act any member of such partnership devoting full time to the partnership business. In the event of such election the employer must serve upon the employer's insurance carrier and upon the commission written notice naming the

partners to be covered and no partner shall be deemed an employee within this act until such notice has been given. For premium rate making, the insurance carrier shall assume the salary or wage or such "employee" to be $400.00 per month.

35–1–65. Temporary Disability—Amount of Payments.

In case of temporary disability, the employee shall receive sixty per cent of his average weekly wages so long as such disability is total, not to exceed a maximum of $35.00 per week and not less than a minimum of $22.75 per week, plus seven per cent of the amount of such award for each dependent minor child under the age of eighteen years, up to and including five such minor children, or a maximum increase of thirty-five per cent in case of five or more such minor dependents; provided that where the wage earned at the time of injury is less than $22.75 per week, the amount of wages earned shall be the amount of compensation to be paid. In no case shall such compensation continue for more than six years from the date of the injury or exceed $10,010.00 in the case of no minor children, as herein defined, or $10,010.00 plus seven per cent for each minor child, up to a maximum of five such minor children or a maximum payment of $13,513.50.

35–1–66. Partial Disability—Payment Scale.

Where the injury causes partial disability for work, the employee shall receive, during such disability and for a period of not to exceed six years from the date of the injury, a weekly compensation equal to 60 per cent of the difference between his average weekly wages before the accident and the weekly wages he is able to earn thereafter, but not more than $35.00 per week, and in addition thereto 7 per cent of the amount of the award for each dependent minor child under the age of eighteen years, up to and including five, or a maximum of $47.25 per week in the case of five or more such dependent minor children.

In case the partial disability begins after a period of total disability, the period of total disability shall be deducted from the total period of compensation.

In no case shall the weekly payments continue after the disability ends, or the death of the injured person.

In the case of the following injuries the compensation shall be 60 per cent of the average weekly wages, but not more than $35.00 per week plus 7 per cent of such award for each dependent minor child, as herein defined, up to a maximum of five such dependent minor children, or a maximum of $47.25 per week in case of five such dependent minor children, to be paid weekly for the periods stated against such injuries respectively, and shall be in addition to the compensation hereinbefore provided for temporary total disability, to wit:

For loss of:

One arm at or near shoulder	200 weeks
One arm at elbow	180 weeks
One arm between the wrist and the elbow	160 weeks
One hand	150 weeks
One thumb and the metacarpal bone thereof	60 weeks
One thumb at the proximal joint	30 weeks
One thumb at the second or distal joint	20 weeks

One first finger and the metacarpal bone thereof	30 weeks
One first finger at the proximal joint	20 weeks
One first finger at the second joint	15 weeks
One first finger at the distal joint	10 weeks
One second finger and the metacarpal bone thereof	30 weeks
One second finger at the proximal joint	15 weeks
One second finger at the second joint	10 weeks
One second finger at the distal joint	5 weeks
One third finger and the metacarpal bone thereof	20 weeks
One third finger at the proximal joint	12 weeks
One third finger at the second joint	8 weeks
One third finger at the distal joint	4 weeks
One fourth finger and metacarpal bone thereof	12 weeks
One fourth finger at the proximal joint	9 weeks
One fourth finger at the second joint	6 weeks
One fourth finger at the distal joint	3 weeks
One leg at or near the hip joint as to preclude the use of an artificial limb	180 weeks
One leg at or above the knee where stump remains sufficient to permit the use of an artificial limb	150 weeks
One leg between the knee and ankle	140 weeks
One foot at the ankle	125 weeks
One great toe with the metatarsal bone thereof	30 weeks
One great toe at the proximal joint	15 weeks
One great toe at the second joint	10 weeks
On toe other than the great toe with the metatarsal bone thereof	12 weeks
One toe other than the great toe at the proximal joint	6 weeks
One toe other than the great toe at the distal joint	3 weeks

In the above cases permanent and complete loss of use shall be deemed equivalent to loss of the member or part thereof.

One eye by enucleation	120 weeks
Total blindness of one eye	100 weeks

For any other disfigurement or the loss of bodily function not otherwise provided for herein, such period of compensation as the commission shall deem equitable and in proportion as near as may be to compensation for specific loss as set forth in the schedule in this section but not exceeding in any case two hundred weeks.

The amounts specified in this section are all subject to the limitations as to the maximum weekly amount payable as specified in this section, and in no event shall more than a total of $8020.86 be required to be paid.

35-1-67. Permanent Total Disability—Amount of Payments—Vocational Rehabilitation—Procedure and Payment.

In cases of permanent total disability the award shall be 60 per cent of the average weekly wages for five years from date of injury, and thereafter 45 per cent of such average weekly wages, but not to exceed a maximum of $35.00 per week and not less than $22.75 per week, plus 7 per cent of such award for each dependent minor child under the age of 18 years up to a maximum of 5 such dependent minor children; *provided, however*, that in no case of permanent total disability shall the employer or its insurance carrier be required to pay more than $14,-

116.71; and *provided, further*, that a finding by the commission of permanent total disability shall in all cases be tentative and not final until such time as the following proceedings have been had:

Where the employee has tentatively been found to be permanently and totally disabled, it shall be mandatory that the industrial commission of Utah refer such employee to the division of vocational rehabilitation under the state board of education for rehabilitation training and it shall be the duty of the commission to order paid to such vocational rehabilitation division, out of that special fund provided for by section 35-1-68, Utah Code Annotated 1953, as amended, subdivision 1, not to exceed $700.00 for use in the rehabilitation and training of such employee; the rehabilitation and training of such employee shall generally follow the practice applicable under section 35-1-69, Utah Code Annotated 1953, as amended, and relating to the rehabilitation of employees having combined injuries. If and when the division of vocational rehabilitation under the state board of education certifies to the industrial commission of Utah in writing that such employee has fully cooperated with the division of vocational rehabilitation in its efforts to rehabilitate him, and in the opinion of the division the employee may not be rehabilitated, then the commission shall order that there be paid to such employee weekly benefits at the rate of 45% of his average weekly earnings, but not to exceed $35.00 per week, out of that special fund provided for by section 35-1-68, Utah Code Annotated 1953, as amended, for such period of time beginning with the time that the payments (as in this section provided) to be made by the employer or its insurance carrier terminate and ending with the death of the employee. No employee, however, shall be entitled to any such payments if he fails or refuses to cooperate with the division of vocational rehabilitation as set forth herein.

The division of vocational rehabilitation shall, at the termination of the vocational training of the employee, certify to the industrial commission of Utah the work the employee is qualified to perform, and thereupon the commission shall, after notice to the employer and an opportunity to be heard, determine whether the employee has, notwithstanding such rehabilitation, sustained a loss of bodily function.

The loss or permanent and complete loss of use of both hands or both arms, or both feet or both legs, or both eyes, or of any two thereof, shall constitute total and permanent disability, to be compensated according to the provisions of this section and no tentative finding of permanent total disability shall be required in such instances; in all other cases, however, and where there has been rehabilitation effected but where there is some loss of bodily function, the award shall be based upon partial permanent disability.

In no case shall the employer be required to pay compensation for any combination of disabilities of any kind including loss of function, in excess of $14,116.71.

35-1-68. Injury Causing Death—Burial Expenses—Filing Claim for Compensation—Time—Payment to State Treasury When No Dependents—Payment to Dependents.

In case injury causes death within the period of three years, the employer or insurance carrier shall pay the burial expenses of the de-

ceased as provided herein, and further benefits in the amounts and to the persons as follows:

(1) If there are no dependents, the employer and insurance carrier shall pay into the state treasury the sum of two thousand five hundred sixty-six and 67/100 dollars. Any claim for compensation must be filed with the commission within one year from the date of the death of the deceased, and, if at the end of one year from the date of the death of the deceased, no claim for compensation shall have been filed with the commission, the said sum of two thousand five hundred sixty-six and 67/100 dollars shall be paid at that time into the state treasury by the employer or the insurance carrier. Such payment shall be held in a special fund for the purposes provided in this title; the state treasurer shall be the custodian of such special fund, and the commission shall direct the distribution thereof.

(2) If there are wholly dependent persons at the time of the death, the payment shall be sixty per cent of the average weekly wage, but not to exceed a maximum of thirty-five and 00/100 dollars per week plus seven percent for each dependent child, to continue for the remainder of the period between the date of the death and not to exceed six years after the date of the injury, and shall not amount to more than a maximum of ten thousand two hundred sixty-six and 70/100 dollars or less than a minimum of twenty-eight hundred dollars; provided that if the deceased had minor children wholly dependent upon him at the time of death then said limit of ten thousand two hundred sixty-six and 70/100 dollars shall be increased by four hundred fifty-seven and 19/100 dollars for each dependent minor child up to five (5) wholly dependent minor children or a maximum of twelve thousand five hundred fifty-two and 65/100 dollars in case of five (5) wholly dependent minor children.

(3) If there are partly dependent persons at the time of the death, the payment shall be sixty per cent of the average weekly wage, but not to exceed the maximum of thirty-five and 00/100 dollars per week, to continue for all or such portion of the period of six years after the date of injury as the commission in each case may determine and shall not amount to more than a maximum of seven thousand four hundred seventeen and 69/100 dollars. The benefits provided for in this subdivision shall be in keeping with the circumstances and conditions of dependency existing at the date of injury, and any amount awarded by the commission under this subdivision must be consistent with the general provisions of this title.

(4) If there are wholly dependent persons and also partially dependent persons at the time of death, the commission may apportion the benefits as it deems just and equitable; provided, that the total benefits awarded to all parties concerned shall not exceed the maximum provided for by law.

35-1-69. Successive Permanent Partial Disabilities—Basis of Compensation—Increase of Compensation—Rehabilitation.

If any employee who has previously incurred permanent partial disability incurs a subsequent permanent partial disability such that the compensation payable for the disability resulting from the combined injuries is greater than the compensation which, except for the preexisting disability would have been payable for the latter injury, the

employee shall receive compensation on the basis of the combined injuries, but the liability of his employer shall be for the latter injury only and the remainder shall be paid out of the special fund provided for in subdivision (1) of section 35-1-68; and in addition the commission in its discretion may increase the weekly compensation rates to be paid out of such special fund, such increase to be used solely for the training of any employee coming within the provisions of this section as may be certified to the commission by the rehabilitation department of the state board of education as being eligible for training; *provided, however,* that in no case shall there be paid out of such special fund for rehabilitation an amount in excess of $700.00.

35-1-81. Awards—Medical, Nursing, Hospital and Burial Expenses — Artificial Limb or Eye—Artificial Appliances.

In addition to the compensation provided for in this title the employer or insurance carrier, or the commission of finance out of the state insurance fund, shall in ordinary cases also be required to pay such a reasonable sum for medical, nurse, and hospital services, and for medicines, and for such artificial means and appliances as may be necessary to treat the patient as in the judgment of the industrial commission may be just, not exceeding the sum of $1,283.38, provided that if upon application to and investigation by the industrial commission it shall find that in particular cases such an amount is insufficient, it shall determine and fix such a reasonable amount as under all the circumstances may be fair and just, and in case death results from the injury, it shall also require the employer or insurance carrier, or the commission of finance out of the state insurance fund, to pay the burial expenses, in ordinary cases not exceeding the sum of $525.00.

In case a compensable accident results in the amputation of a limb or the enucleation of an eye, the employer, in the commission's discretion, shall be required to purchase and pay for an artificial limb or eye, as the case may be, at an expense to the employer of not to exceed $525.00 for each appliance.

In the event a compensable accident results in the breaking or loss of an artificial appliance, the employer, in the commission's discretion, shall be required to purchase and pay for a replacement of the artificial appliance at an expense to the employer of not to exceed $525.00 for each appliance, *provided, however,* that if the artificial appliance so broken or lost is eye glasses, then it shall be mandatory in the replacement thereof that case-hardened safety glasses be so supplied if the wearing of safety glasses is required by rule of the employer. Nothing herein shall require the replacement of an artificial appliance damaged by ordinary wear and tear.

Section 2. Effective Date.

This act shall take effect July 1, 1957.

Approved March 14, 1957.

CHAPTER 63

H. B. No. 71. (Passed March 11, 1957. In effect July 1, 1957.)

OCCUPATIONAL DISEASE BENEFITS

An Act Amending Sections 35-2-11, 35-2-15, 35-2-56, Utah Code Annotated 1953, as Amended, Relating to Occupational Disease Providing for Increased Benefits.

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

Section 1. Sections Amended.

Sections 35-2-11, 35-2-15, 35-2-56, Utah Code Annotated 1953, as amended, are amended to read:

35-2-11. "Employee," "Workmen," "Operatives" defined.

The words "employee," "workmen" and "operative," as used in this act shall be construed to mean:

(a) Every elective and appointive officer, and every other person, in the service of the state, or of any county, city, town or district board of education within the state, serving the state, county, city, town or district board of education therein under any election or appointment, or under any contract for hire, express or implied, written or oral, including all officers and employees of the state institutions of learning.

(b) Every person, except agricultural laborers and domestic servants, in the service of any "employer" as defined in section 35-2-10 (b) who employs one or more workmen or operatives regularly in the same business, or in or about the same establishment, under any contract of hire, express or implied, oral or written, including aliens, and minors whether legally or illegally working for hire, but not including any person whose employment is but casual and not in the usual courses of trade, business or occupation of his employer.

(c) All lesees in mines or of mining property and the employees and sublessees of all such lessees shall, unless the lessee provides coverage as an employer under this chapter be covered for compensation by the lessor under this chapter, and shall, in such event, be subject to this chapter and entitled to its benefits, to the same extent as if they were employees of the lessor drawing such wages as are paid employees for similar or substantially similar work provided, that the lessor may deduct from the proceeds of ores mined by the lessees an amount equal to the insurance premium for such type of work.

(d) If the employer is a partnership, such employer may elect to include as an "employee" within the provisions of this act any member of such partnership devoting full time to the partnership business. In the event of such election the employer must serve upon the employer's insurance carrier and upon the commission written notice naming the partners to be covered and no partner shall be deemed an employee within this act until such notice has been given. For premium rate making, the insurance carrier shall assume the salary or wage of such "employee" to be $400.00 per month.

35-2-15. Benefits — Amounts — Permanent Total Disability — Vocational Rehabilitation — Procedure and Payments — Temporary Total Disability — Death — Dependents — Medical, Hospital and Burial Expenses.

The benefits to which a disabled employee or his dependents shall be entitled under this act shall be based upon his average weekly wage computed under the formula set forth in section 35-1-75, Utah Code Annotated 1953, as amended, and are to be limited as follows:

(a) In cases of permanent total disability the award shall be 60% of the average weekly wages for a period of not to exceed five years, beginning with the date total disability began, and thereafter 45% of such average weekly wages, but not to exceed a maximum of $35.00 per week and not less than $22.75 per week, plus 7% of such award for each dependent minor child under the age of 18 years up to a maximum of 5 such dependent minor children; *provided, however,* that in no case of permanent total disability shall the employer or its insurance carrier be required to pay more than $14,116.71; and *provided, further,* that a finding by the commission of permanent total disability shall in all cases be tentative and not final until such time as the following proceedings have been had:

Where the employee has tentatively been found to be permanently and totally disabled, as in this section provided, it shall be mandatory that the industrial commission of Utah refer such employee to the division of vocational rehabilitation under the state board of education for rehabilitation training and it shall be the duty of the commission to order paid to such vocational rehabilitation division, out of that special fund provided for by section 35-1-68, Utah Code Annotated 1953, as amended, subdivision 1, not to exceed $700.00 for use in the rehabilitation and training of such employee; the rehabilitation and training of such employee shall generally follow the practice applicable under section 35-1-69, Utah Code Annotated 1953, as amended, and relating to the rehabilitation of employees having combined injuries. If and when the division of vocational rehabilitation under the state board of education certifies to the industrial commission of Utah in writing that such employee has fully cooperated with the division of vocational rehabilitation in its efforts to rehabilitate him, and in the opinion of the division the employee may not be rehabilitated, then the commission shall order that there be paid to such employee weekly benefits at the rate of 45% of his average weekly earnings, but not to exceed $35.00 per week, out of that special fund provided for by section 35-1-68, Utah Code Annotated 1953, as amended, for such period of time beginning with the time that the payments (as in this section provided) to be made by the employer or its insurance carrier terminate and ending with the death of the employee. No employee, however, shall be entitled to any such payments if he fails or refuses to cooperate with the division of vocational rehabilitation as set forth herein.

The division of vocational rehabilitation shall, at the termination of the vocational training of the employee, certify to the industrial commission of Utah the work the employee is qualified to perform, and thereupon the commission shall, after notice to the employer and

an opportunity to be heard, determine whether the employee has, notwithstanding such rehabilitation, sustained a loss of bodily function.

In no case shall the employer be required to pay compensation for any combination of disabilities of any kind including loss of function, in excess of $14,116.71.

(b) In cases of temporary total disability the award shall be 60% of the average weekly wages as determined under section 35-1-75, Utah Code Annotated 1953, as amended, but not to exceed a maximum of $35.00 per week and not less than $22.75 per week, plus 7% of such award for each dependent minor child under the age of 18 years up to a maximum of 5 such dependent minor children, such payment to be made for a period not exceeding 52 weeks; in the event total disability continues in excess of 52 weeks, then the commission shall apply the rehabilitation provisions of this section hereinabove set forth.

(c) In case of death those persons who were wholly dependent upon the employee at the time of death shall be entitled to and shall receive the difference, if any, between ten thousand two hundred sixty-six and 70/100 ($10,266.70) dollars and the amounts the employer may have paid to the employee on account of permanent total, total temporary and partial permanent disability provided that if the deceased had minor children wholly dependent upon him at the time of death, then said limit of ten thousand two hundred sixty-six and 70/100 ($10,266.70) dollars shall be increased by four hundred fifty-seven and 19/100 ($457.19) dollars for each such dependent minor child up to five (5) wholly dependent minor children or a maximum of twelve thousand five hundred fifty-two and 65/100 ($12,552.65) dollars in case of five (5) wholly dependent minor children; the payments to the dependents to be made at the same weekly rate as the payments made to the deceased employee immediately preceding his death. If the dependents of the deceased were but partially dependent upon him at the time of death, then the compensation payable shall be in such amount and at such times as the commission may determine but shall not exceed two-thirds of the amount that would have been payable (as in this paragraph provided) if the dependents has been wholly dependent at the time of death.

(d) In the event that the employee becomes totally disabled from an occupational disease, the employer shall furnish and pay for such medical service, hospitalization and medicines as may be reasonably required, but not to exceed the sum of $1,283.33; except that in special cases of prolonged hospitalization the commission may, in its discretion, increase the amount to a maximum of $1,925.01.

(e) In case death results from such occupational disease the employer shall pay not to exceed $525.00 burial expenses.

35-2-56. Partial Permanent Disability From Occupational Disease — Imposition of Liability — Determination of Disability — Medical Panel — Rehabilitation Benefits.

I. There is imposed upon the employer a liability for the payment of benefits, as hereinafter provided, to every employee who becomes partially and permanently disabled and such disability is primarily

caused or contributed to by a disease or injury to health arising out of or in the course of employment, subject however to the following conditions:

(a) No compensation shall be paid when the last day of injurious exposure of the employee to the hazards of the occupational disease shall have occurred prior to July 1, 1941.

(b) No compensation shall be paid unless such partial disability results within two years prior to the day upon which claim for such compensation was filed with the industrial commission of Utah:

(c) No compensation shall be paid unless the partial disability results within two years of the last day in which the employee was exposed to the occupational disease.

II. It is recognized that the measurement of partial permanent disability is highly technical and difficult task and should be placed in the hands of physicians specially trained for the care and treatment of the occupational disease involved, and that particularly in cases of silicosis such determination should be by physicians limiting largely their practice to diseases of the chest; that the measurement of the extent of such disability should not be determined by physicians in general practice nor by laymen. Where a claim for compensation based upon partial permanent disability due to an occupational disease is filed with the commission, the commission shall appoint an impartial medical panel to consist of not less than three physicians specializing in the treatment of the disease or condition involved in the claim, and such medical panel shall make such study, take such x-rays and perform such tests as the panel may determine and certify to the commission the extent, if any, of the permanent disability of the claimant from performing work for remuneration or profit, and whether the sole cause of such partial permanent disability, in the opinion of the panel, results from the occupational disease and whether any other cause or causes have aggravated, prolonged, accelerated or in anywise contributed to the disability, and if so, the extent (in percentage) to which such other cause or causes has so contributed to the disability. The report of the panel shall be made to the commission in writing and shall be in substantially the following form:

REPORT OF MEDICAL PANEL
Partial Permanent Disability Cases

To the Industrial Commission of Utah
State Capitol Building
Salt Lake City, Utah

Re: ....., Claimant

Claim No. .....

The medical panel, composed of the undersigned physicians, has completed its study and examination of the above named claimant with respect to the measurement of the ability of the claimant to perform physical labor* (but without regard to the education, experience or training of the claimant) and on the assumption that the normal person functions at 100%, finds as follows:

		Percentage	Percentage
(1)	Extent or permanent Partial Disability from all causes (if any)		.....
**(2)	Specific causes of such disability:		
	a. Occupational Disease (if any)	.....	
	Name of occupational disease		
	.....		
	.....		
	b. Other diseases or injuries	.....	
	Names of such diseases or injuries		
	.....		
	.....		
	c. Other contributing factors	.....	
	Description of such factors		
	.....		
	.....		
	.....		
	.....		
	TOTAL		.....

Dated ....., 19.....

.....
.....
.....
.....
(MEDICAL PANEL)

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*Sec. — 1949 Session Laws — Utah, defines partial permanent disability as: "Partial permanent disability," as herein used, is defined as that pathological condition directly resulting from an occupational disease and causing substantial physical impairment, evidenced by objective medical and clinical findings readily demonstrable, and which has reduced the earning capacity of the employee, excluding, however, total disability cases.

**The sum of the percentage under (2) a, b and c should equal the percentage of (1).

and the commission shall promptly distribute by mail full copies of such report to the claimant, employer against whom compensation is claimed and the insurance carrier. Thereafter any such party shall have ten days to object, in writing, to such report, and if no objections are filed with the commission within such period, the percentage of partial disability caused by the occupational disease and so certified by the medical panel shall be deemed accepted. The expense of such study and certification shall be paid out of the fund provided for by 35-1-68, Utah Code Annotated 1953, as amended, and such study and certification shall be a part of the record. If objection to such report are filed, then it shall be the duty of the commission to determine the percentage of such partial permanent disability after formal hearing, and at such formal hearing the party objecting must show by the weight of the evidence the extent of such claimed partial permanent disability and on appeal the evidence shall be reviewed as in equity cases, nothwithstanding section 35-2-38, Utah Code Annotated 1953.

III. Where an employee has been found to be partially and permanently disabled by reason of an occupational disease, as in this section provided, and the commission further finds that the employee is unable to obtain employment in his usual trade or occupation, or on application of either the employee or employer the commission finds that it is to the best interest of the employee so partially and permanently disabled by reason of an occupational disease that he no longer works at his usual trade or occupation, then it shall be the duty of the commission to order that there be paid to the division of vocational rehabilitation of the state board of education out of that special fund provided for by section 35-1-68, Utah Code Annotated 1953, as amended, subdivision 1, not to exceed $700.00 for use in the rehabilitation of such employee, such rehabilitation to be directed and controlled by such division of rehabilitation acting in conjunction with the industrial commission of Utah and shall generally follow the practice applicable under section 35-1-69, Utah Code Annotated 1953, as amended, and relating to the rehabilitation of employees having combined injuries.

IV. The benefits imposed upon the employer and to which an employee found, as in this section above provided, to be partially permanently disabled, shall be entitled under this act, are limited to the following:

During those weeks in which the employee is actively in training under the division of rehabilitation, as in this section above referred to, the employee shall receive $35.00 per week for not to exceed 10 weeks, or a total of $350.00, such payment to be made at four-week intervals and upon the filing with the commission at two-week intervals of a certificate by the division of rehabilitation that the employee is cooperating with such division in his rehabilitation training.

At the termination of such training in rehabilitation, the employee shall be paid $19.25 a week at four-week intervals until such time as the total payments so made, plus the weekly payments received by the employee during rehabilitation training, equals a sum equivalent to that amount determined under the following formula:

By applying the percentage of partial permanent disability resulting from the occupational disease and determined by the medical panel (or

in case of formal hearing, then by the commission) to the amount of $3,850.00. For example: Assume a finding by the medical panel that the employee has sustained partial permanent disability from an occupational disease to the extent of 20% loss of bodily function. 20% of $3,850.00 equals $770.00. The amount payable would therefore be:

10 weeks rehabilitation	$350.00
Balance at intervals of 4 weeks	$420.00
TOTAL	$770.00

Notwithstanding anything hereinabove provided, payments for partial permanent disability shall not exceed in any one case an aggregate of three thousand eight hundred fifty dollars ($3,850.00) and all payments so made shall be credited to the employer and deducted from any award which might ultimately be made the employee subsequently become totally and permanently disabled.

Section 2. Effective Date.

This act shall take effect July 1, 1957.

Approved March 14, 1957.

CHAPTER 64

H. B. No. 164. (Passed March 12, 1957. In effect March 18, 1957.)

UNEMPLOYMENT COMPENSATION — CONTRIBUTIONS

An Act Amending Sections 35-4-7, 35-4-9, 35-4-11, Utah Code Annotated 1953 as Amended by Chapter 4, Laws of Utah, 1955, and 35-4-15 as Enacted by Utah Code Annotated 1953, Relating to Unemployment Compensation; Changing the Computation and Cut-off Dates, and Providing for Rate Computations on Calendar Year Payrolls, Redefining Reserve, Providing for Treatment of Bonus and Lump Sum Payments, Redefining Total Wages; Designating the Accounts from Which Refunds of Contributions, Interest and Penalties, May be Made; Clarifying Conditions Under Which Monies Received Pursuant to the Provisions of the Federal "Employment Security Administrative Financing Act of 1954" May be Appropriated; Providing for a Full-Time Administrator and Prescribing His Duties; Redefining the Duties of the Commission in Reducing and Preventing Unemployment and in Maintaining Employment; and Providing for a Department of Employment Security of the Industrial Commission Official Seal.

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

Section 1. Section Amended.

Section 35-4-7, Utah Code Annotated 1953, as amended by Chapter 4, Laws of Utah, 1955, is amended to read:

35-4-7. Contributions.

(a) (1) On and after January 1, 1936, contributions shall accrue and become payable by each employer for each calendar year in which he is subject to this act with respect to wages for employment. Such contributions shall become due and be paid by each employer to the

Commission for the fund in accordance with such regulations as the Commission may prescribe, and shall not be deducted, in whole or in part, from the wages of individuals in such employer's employ.

(2) In the payment of any contributions, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent.

(b) Each employer shall, except as provided in subsection (c) of this section, pay contributions equal to two and seven-tenths per cent of wages paid by him during the calendar years occurring after December 31, 1955; provided that each employer who is not a "qualified employer" shall pay contributions equal to two and seven-tenths per cent of wages paid by him during the calendar year 1955.

(c) (1) As used in this section:

(A) "Computation date" means January first of any year, the first such date being January 1, 1958.

(B) "Cut-off date" means February 15 with respect to contribution rates effective for calendar years occurring after December 31, 1957.

(C) "Qualified employer" means any employer who: was an employer as defined in this act during each of the twelve consecutive calendar quarters immediately preceding the computation date; and had employment in each of the three completed calendar years immediately preceding the computation date; and with respect to such three calendar years had filed all contribution reports prescribed by the Commission by the cut-off date.

A rate of less than 2.7% shall be effective January 1 of any contribution year only with respect to those qualfiied employers who on or before March 31 of such year have (except for amounts due pursuant to determinations which have not become final) paid all contributions due on the contribution reports prescribed by the Commission with respect to the three calendar years immediately preceding the computation date: provided, that the qualified employer who after March 31 pays all such contributions shall, for the current contribution year, be assigned a reduced rate effective with the first day of the calendar quarter in which such payment was made.

If an employer has acquired all or substantially all the assets of another employer and such other employer had discontinued operations upon such acquisition, the period of liability with respect to the filing of contribution reports, the payment of contributions, and the payrolls of both such employers during the three previous calendar years shall be jointly considered for the purpose of determining and establishing the acquiring party's qualifications for an experience rating classification; provided that the transferring employer shall be divested of his payroll experience.

When an employer or prospective employer has acquired an operating department, section, division, or any substantial portion of the business or assets of any employer which is clearly segregable and identifiable, the entire payroll experience of the transferring employer shall be divided between the transferring and acquiring employers in proportion to the payroll for the four preceding completed calendar

quarters attributable to the operating assets conveyed and retained; *provided further,* that the rate of the acquiring employer for the current contribution year shall be that rate which is assigned pursuant to regulations of the Commission.

Any employing unit or prospective employing unit which acquires all or part of the payroll experience of an employer shall, for all purposes of this Act, be an employer as of the date of such acquisition.

When an employer, as provided in this subsection, has been divested of his payroll experience by transferring all of his business to another and by ceasing operations as of the date of the transfer, such transferring employer shall, notwithstanding the provisions of Section 35-4-8, cease to be an employer (as defined by this act) as of the date of such transfer.

(D) "Surplus" means that amount determined in accordance with the following: When the reserve with respect to subject wages for the calendar year next preceding the computation date bears a relationship as shown on the left-hand side of the table below, the surplus shall be that amount in even dollars resulting from applying the percentage figure directly opposite in the right-hand column to the subject wages for the calendar year next preceding the computation date.

Reserve (per cent of subject wages)	Surplus (per cent of subject wages)
At least 10%	1.7%
At least 9% but less than 10%	1.6%
At least 8% but less than 9%	1.4%
At least 7% but less than 8%	1.2%
At least 6% but less than 7%	.7%
Less than 6%	.0%

(E) "Total wages" means all remuneration paid by an employer to employees for insured work.

(F) "Subject wages" means that part of the total wages which are subject to contributions under provisions of this act.

(G) "Reserve" means that amount of money in the fund as of the computation date, exclusive of monies transferred to the fund under the provisions of the Federal Employment Security Administrative Financing Act of 1954, which have been appropriated or are subject to appropriation by the state legislature.

(H) "Employer's experience factor" means the figure established in the following manner:

(1) The sums of the quotients of calendar year decreases of subject wages in regard to the three consecutive calendar years immediately preceding the computation date shall be established, each such quotient to be obtained by dividing any decrease of subject wages of a qualified employer in any calendar year from the preceding calendar year by the amount of the subject wages in such preceding calendar year, each division being carried out to the fourth decimal place and the remaining fraction, if any, disregarded.

Each qualified employer shall be assigned that figure, designated as calendar year factor, which is listed below on the same horizontal line

on which the sum of such employer's quotients of calendar year decreases of subject wages appears.

Sum of Calendar Year

Decrease Quotients	Calendar Year Factor
Less than 0.1	12
0.1 or more but less than 0.2	10
0.2 or more but less than 0.3	8
0.3 or more but less than 0.4	6
0.4 or more but less than 0.5	4
0.5 or more but less than 0.6	2
0.6 or more	0

(2) The sums of the quotients of quarterly decreases of total wages in regard to the three consecutive calendar years immediately preceding the computation date shall be established, each such quotient to be obtained by dividing any decrease of the total wages paid by a qualified employer to all of his employees in any calendar quarter from the preceding quarter by the amount of the total wages paid by him to all his employees in such preceding quarter, each division being carried out to the fourth decimal place and the remaining fraction, if any, disregarded.

Each qualified employer shall be assigned that figure, designated as quarterly factor, which is listed below on the same horizontal line on which the sum of such employer's quotients of quarterly decreases of total wages appears.

Sum of Quarterly Decrease Quotients	Quarterly Factor
Less than 0.5	12
0.5 or more but less than 1.0	10
1.0 or more but less than 1.5	8
1.5 or more but less than 2.0	6
2.0 or more but less than 2.5	4
2.5 or more but less than 3.0	2
3.0 or more	0

(3) In accordance with the calendar years of liability for contribution under this section, each qualified employer shall be assigned that figure, designated as age factor, which is listed below on the same horizontal line on which there appears the number of full consecutive calendar years preceding the computation date during which the employer has been liable for contributions hereunder.

Years of Liability for Contributions	Age Factor
8 years or more	5
4 years or more but less than 8 years	4
Less than 4 years	3

The sum of the qualified employer's calendar year factor, quarterly factor and age factor constitute such "employer's experience factor."

(I) "Class weight" means the figure assigned to each class, as set forth below:

Class	Weight
I.	24
II.	22
III.	20
IV.	18
V.	16
VI.	14
VII.	12
VIII.	10
IX.	8
X.	0

(J) "Class product" means the figure obtained by multiplying the classweight by the quotient resulting from dividing the subject wages of all employers in the same class by the total of subject wages of all qualified employers for the calendar year immediately preceding the computation date, such division being carried out to the fourth decimal place and the remaining fraction, if any, disregarded.

(2) Qualified employers shall be grouped into ten classes, to be designated as classes I, II, III, IV, V, VI, VII, VIII, IX, and X, respectively, in accordance with their experience factor.

Each qualified employer shall be in the class listed below on the same horizontal line on which his experience factor appears:

Employer's Experience Factor	Class
29-28	I.
27-26	II.
25-23	III.
22-20	IV.
19-17	V.
16-14	VI.
13-11	VII.
10- 8	VIII.
7- 5	IX.
4	X.

(3) There shall be assigned to each of the classes, numbered I to IX, such portion of the surplus which bears the same ratio to the surplus as the class product of such class bears to the sum of the class products of all classes. No portion of the surplus shall be credited to Class X.

(4) With respect to each class, an amount of two and seven-tenths per cent of the subject wages shall be determined. From this amount in each class shall be deducted the surplus assignable to that class. This remaining amount shall be divided by the subject wages in that class, such division being carried to the third decimal place and the remaining fraction, if any, disregarded. The class rate shall be that fraction thus obtained.

(5) The contribution rate to become effective on January 1, 1956, and thereafter on January 1 of each year shall be the class rate determined for that class into which the given employer is placed by application of this section.

(6) Corrections or modifications of any employer's total or subject wages shall not be taken into account for the purpose of decreasing the contribution rate unless such corrections or modifications are established before the cut-off date. However, corrections or modifications made by the Department or the employer which place the employer in a less favorable class shall be considered at the time of discovery by the Department, and the employer shall for the year affected be liable for contributions at the rate of the class in which he is placed subsequent to the corrections or modifications.

Adjustments or modifications made after the cut-off date or the changing of any individual employer from one class to another shall not affect the class rates established and shall not affect any other computation made under this section.

(7) No contribution rate in an amount of less than two and seven-tenths per cent shall be transferrable by any employer to his successor or anyone else except in accordance with such regulations as the Commission may prescribe.

(8) All remuneration for insured work paid to an employee during any calendar year in the form of a bonus or lump sum payment shall, for rating purposes, be treated in accordance with regulations of the Commission.

(d) If not later than three years after the date on which any contributions or interest or penalty thereon were paid, an employer who has paid such contributions or interest or penalty thereon shall make application for an adjustment thereof in connection with subsequent contribution payments, or for a refund thereof because such adjustment cannot be made, and the Commission shall determine that such contributions or interest or penalty or any portion thereof was erroneously collected, the Commission shall allow such employer to make an adjustment thereof, without interest, in connection with subsequent contribution payments by him, or if such adjustment cannot be made, the Commission shall refund said amount, without interest. Refunds of contributions shall be made from the clearing account or the benefit account in the fund, and refunds of interest and penalty shall be made from the special administrative expense fund or from the interest and penalty monies in the clearing account of the fund. For like cause and within the same period, an adjustment or refund may be so made on the Commission's own initiative. Decisions with respect to such applications for refund shall be deemed final unless the employing unit shall, within ten days after the mailing or personal delivery of notice of such decision, apply to the Commission for a review of such decision as provided in Section 35-4-10.

(e) All contributions paid by an employer under this act shall be deductible in arriving at the taxable income of such employer under the provisions of Chapters 13 and 14, Title 59, Utah Code Annotated 1953, as amended, to the same extent as taxes are deductible during any taxable year by any such employer.

Section 2. Section Amended.

Section 35-4-9, Utah Code Annotated 1953, as amended by Chapter 4, Laws of Utah 1955, is amended to read:

35-4-9. Unemployment Compensation Fund — Administration — Contents — Treasurer and Custodian — Separate Accounts — Use of Money Requisitioned.

(a) There is hereby established as a special fund, separate and apart from all public monies or funds of this state, an unemployment compensation fund, which shall be administered by the Commission exclusively for the purposes of this act. This fund shall consist of (1) all contributions collected pursuant to this act less refunds of contributions made from the clearing account pursuant to Section 7 (d); (2) interest earned upon any monies in the fund; (3) any property or securities acquired through the use of monies belonging to the fund; (4) all earnings of such property or securities; (5) all money credited to this state's account in the unemployment trust fund pursuant to Section 903 of the Social Security Act as amended; and (6) all other monies received for the fund from any other source. All monies in the fund shall be mingled and undivided.

(b) The state treasurer shall be the treasurer and custodian of the fund, and shall administer this fund in accordance with the directions of the Commission and shall pay all warrants drawn upon it by the Commission or its duly authorized agent in accordance with such regulations as the Commission shall prescribe. The Commission shall maintain within the fund three separate accounts: (1) a clearing account, (2) an unemployment trust fund account, and (3) a benefit account. All monies payable to the fund, upon receipt thereof by the Commission, shall be immediately deposited in the clearing account. All monies in the clearing account after clearance thereof, shall, except as herein otherwise provided, be deposited immediately with the secretary of the treasury of the United States of America to the credit of the account of this state in the unemployment trust fund, established and maintained pursuant to Section 904 of the Social Security Act, as amended, any provisions of law in this state relating to the deposit, administration, release, or disbursement of monies in the possession or custody of this state to the contrary notwithstanding. Refunds of contributions payable pursuant to Sections 35-4-7 and 35-4-22 (j) (6) (B) may be paid from the clearing account or the benefit account. The benefit account shall consist of all monies requisitioned from this state's account in the unemployment trust fund in the United States Treasury. Except as herein otherwise provided, monies in the clearing and benefit accounts may be deposited in any depository bank in which general funds of this state may be deposited, but no public deposit insurance charge or premium shall be paid out of the fund. Monies in the clearing and benefit accounts shall not be commingled with other state funds, but shall be maintained in separate accounts on the books of the depository bank. Such money shall be secured by the depository bank to the same extent and in the same manner as required by the General Depository Law of this state; and collateral pledged for this purpose shall be kept separate and distinct from any collateral pledged to secure other funds of the state. The state treasurer shall be liable on his official bond for the faithful performance of his duties in connection with the unemployment compensation fund provided for under this act. Such liability on the official bond shall be effective immediately

upon the enactment of this provision, and such liability shall exist in addition to the liability upon any separate bond existent on the effective date of this provision, or which may be given in the future. All sums recovered for losses sustained by the fund shall be deposited therein.

(c) Monies requisitioned from this state's account in the unemployment trust fund shall, except as hereinbelow set forth, be used exclusively for the payment of benefits and for refunds of contributions pursuant to Sections 35-4-7 and 35-4-22 (j) (6) (B). The Commission shall from time to time requisition from the unemployment trust fund such amounts, not exceeding the amounts standing to this state's account therein, as it deems necessary for the payment of such benefits and refunds for a reasonable future period. Upon receipt thereof the treasurer shall deposit such monies in the benefit account and shall pay benefits and refunds therefrom by means of warrants issued by the Commission or its duly authorized agent in accordance with regulations prescribed by the Commission. Expenditures of such monies in the benefit account and refunds from the clearing account shall not be subject to any provisions of law requiring specific appropriations or other formal release by state officers of money in their custody.

Monies in the state's account in the unemployment trust fund which were collected under the provisions of the "Federal Unemployment Tax Act" and transferred to the state under the provisions of the Federal "Employment Security Administrative Financing Act of 1954" may be requisitioned from the state's account and used in the payment of expenses incurred by the Commission for the administration of this state's unemployment law and public employment offices, *provided* that the expenses are incurred and the withdrawals are made only after and pursuant to a specific appropriation of the legislature which specifies: (A) the purposes and amounts, and (B) that such monies may not be spent after the two-year period which began on the date of the enactment of the appropriation law, and (C) that the total amount which may be so used during a fiscal year shall not exceed the amount by which the aggregate of the amounts credited to the state's account pursuant to the aforementioned Federal "Employment Security Administrative Financing Act of 1954," during such fiscal year and the four preceding fiscal years, exceeds the aggregate of the amounts used by the state for administration during the same five fiscal years. For the purposes of (C) above, amounts used during any fiscal year shall be charged against equivalent amounts which were first credited and which have not previously been so charged; except that no amount used during any fiscal year may be charged against any amount credited during a fiscal year earlier than the fourth preceding fiscal year. Except as appropriated and used for administrative expenses, as hereinabove provided, monies transferred to the state under the provisions of the Federal "Employment Security Administrative Financing Act of 1954" may be used only for the payment of benefits.

Such monies available by reason of such legislative appropriation shall not be expended or available for expenditure in any manner which would permit their substitution for (or a corresponding reduction in) federal funds which would in the absence of said monies be available

to finance expenditures for the administration of the Employment Security Act.

Any balance of monies requisitioned from the unemployment trust fund which remains unclaimed or unpaid in the benefit account after the expiration of the period for which such sums were requisitioned shall either be deducted from estimates for, and may be utilized for the payment of, benefits and refunds during succeeding periods, or in the discretion of the Commission, shall be redeposited with the secretary of the treasury of the United States of America to the credit of this state's account in the unemployment trust fund, as provided in subsection (b) of this section.

(d) The provisions of subsections (a), (b) and (c) of this section, to the extent that they relate to the unemployment trust fund, shall be operative only so long as such unemployment trust fund continues to exist and so long as the secretary of the treasury of the United States of America continues to maintain for this state a separate book account of all funds deposited therein by the state for benefit purposes, together with this state's proportionate share of the earnings of such unemployment trust fund, from which no other state is permitted to make withdrawals. If and when such unemployment trust fund ceases to exist, or such separate book account is no longer maintained, all monies belonging to the unemployment compensation fund of this state shall be administered by the commission as a trust fund for the purpose of paying benefits under this act, and the commission shall have authority to hold, invest, transfer, sell, deposit and release such monies, and any properties, securities, or earnings acquired as an incident to such administration; provided, that such monies shall be invested in the following readily marketable classes of securities; bonds or other interest-bearing obligations of the United States of America, of this state or of any county, city, town or school district of this state, at current market prices for such bonds; and *provided, further,* that such investment shall at all times be so made that all the assets of the fund shall always be readily convertible into cash when needed for the payment of benefits.

Section 3. Section Amended.

Section 35-4-11, Utah Code Annotated 1953, as amended by Chapter 4, Laws of Utah 1955, is amended to read:

35–4–11. Administration of Act.

(a) (1) It shall be the duty of the Industrial Commission to administer this act; and it shall have power and authority to adopt, amend, or rescind such general rules, regulations, and special orders, to employ such persons, make such expenditures, require such reports, make such investigations, make audits of any or all funds provided for under this act at such times as it deems necessary, and take such other action as it deems necessary or suitable to that end. The Commission shall create a department to be known as the Department of Employment Security for the purpose of administering this act. All personnel of such department, including a full-time administrator, shall be employed on a nonpartisan merit basis. Such full-time administrator shall, with the approval of the Commission, determine the Department's organi-

zation and methods of procedure in accordance with the provisions of this act, and he shall, under direction of the Commission, supervise the Department personnel and its operations. The Department of Employment Security of the Industrial Commission shall have an official seal which shall be judicially noticed. Not later than the first day of October of each year, the Commission shall submit to the governor a report covering the administration and operation of this act during the preceding calendar year and shall make such recommendations for amendments to this act as the Commission deems proper. Such report shall include a balance sheet of the monies in the fund in which there shall be provided, if possible, a reserve against liability in future years to pay benefits in excess of the then current contributions, which reserve shall be set up by the Commission in accordance with accepted actuarial principles on the basis of statisics of employment, business activity, and other relevant factors for the longest possible period. Whenever the Commission believes that a change in contribution or benefit rates will become necessary to protect the solvency of the fund, it shall promptly so inform the Governor and the Legislature and make recommendations with respect thereto.

(2) Any two commissioners shall constitute a quorum. No vacancy shall impair the right of the remaining commissioners to exercise all the powers of the Commission.

(b) General rules and special orders may be adopted, amended, or rescinded by the Commission only after public hearing or opportunity to be heard thereon, of which appropriate notice has been given. Regulations of the Commission may be adopted, amended, or rescinded and shall become effective in such manner as the Commission shall prescribe. General rules shall become effective ten days after filing with the Secretary of State and such publication in one or more newspapers of general circulation in this state as the Commission shall prescribe. Special orders shall become effective ten days after notification to or mailing to the last-known address of the individuals or concerns affected thereby.

(c) The Commission shall cause to be printed for distribution to the public the text of this act, the Commission's general rules, its regulations and its annual reports to the Governor, and any other material the Commission deems relevant and suitable and shall furnish the same to any person upon application therefor.

(d) The Commission shall appoint on a nonpartisan merit basis, fix the compensation, and prescribe the duties and powers of such officers, accountants, attorneys, experts, and other personnel as may be necessary in the performance of its duties. The Commission shall provide for a merit system covering all such persons, classify and fix the minimum standards for the personnel and formulate salary schedules for the service so classified, and the commission shall hold or provide for holding examinations to determine the technical and professional qualifications of applicants for positions in the Commission, and provide for annual merit ratings of employees in the Commission to ascertain whether such employees, or any of them, are maintaining the eligibility standards prescribed by the Commission and those promulgated by the Social Security Board. No employee shall be separated or de-

moted so long as he meets such eligibility standards of performance *provided* that when a reduction in personnel is made because of lack of funds, curtailment of work or the elimination of specific positions or classes of positions or identifiable programs, an employee thus separated, reclassified or reassigned shall be separated, reclassified or reassigned without prejudice and in accordance with an established separation formula based on merit system principles and tenure of service approved by the Commission and the United States Bureau of Employment Security. The Commission shall not employ or pay any person who is an officer or committee member of any political party organization. The Commission may delegate to any such person so appointed such power and authority as it deems reasonable and proper for the effective administration of this act, and may in its discretion bond any person handling monies or signing checks hereunder. The Commission is authorized in its discretion to provide for the maintenance of the merit system required under this section in cooperation and conjunction with any merit system applicable to any state agency or agencies which meets the standards of the Commission and those promulgated by the Social Security Board. The Commission is authorized when permissible under Federal and State law to make such arrangements as will permit individuals employed under this act to voluntarily elect coverage under the United States Civil Service Retirement System with respect to past as well as future services.

(e) The Commission shall appoint a state advisory council composed of not less than four employer representatives chosen from individuals recommended by employers, an equal number of employee representatives chosen from individuals recommended by employee groups, and three public representatives who may fairly be regarded as representative because of their vocation, employment, or affiliations. Such council members shall be appointed for two-year terms which shall commence July 1 and end June 30. The first term under this provision shall commence July 1, 1949, *provided, however,* that the Commission shall terminate the term of any council member when he has ceased to be representative as designated by his original appointment. The Commission may appoint local advisory councils composed of an equal number of employer representatives and employee representatives who may fairly be regarded as representative because of their vocation, employment, or affiliations and of such members representing the general public as the Commission may designate. Such state and local advisory councils shall aid the Commission in formulating policies and discussing problems related to the administration of this Act and in assuring impartiality and freedom from political influence in the solution of such problems. The members of such advisory councils shall each be paid a fee of not more than $15.00 per day for each day of attendance at meetings necessary to the performance of their duties plus necessary expenses.

(f) The Commission with the advice and aid of its advisory councils shall take all appropriate steps to reduce and prevent unemployment; to encourage and assist in the adoption of practical methods of vocational training, retraining and vocational guidance; to investigate, recommend, advise, and assist in the establishment and operation, by

the state, of reserves for public works to be used in times of business depression and unemployment; to promote the creation and development of job opportunities and the reemployment of unemployed workers throughout the state in every way that may be feasible; to plan, coordinate, organize or direct economic development programs as are deemed necessary to maintain or create job opportunities; to cooperate with local communities, industries and organizations in encouraging and promoting the full development of the state's mineral, water and other natural resources; to appraise the agricultural and industrial potential of the state; to these ends to carry on activities and organize, coordinate, and publish the results of investigations and research studies and to accomplish these ends the Commission may enter into agreements with governmental or other agencies.

(g) Each employing unit shall keep true and accurate work records containing such information as the Commission may by regulation prescribe. Such records shall be open to inspection and be subject to being copied by the Commission or its authorized representatives at any reasonable time and as often as may be necessary. The Commission may require from any employing unit any sworn or unsworn reports with respect to persons employed by it which the Commission deems necessary for the effective administration of this act. Information thus obtained or obtained from any individuals shall not be published or be open to public inspection (other than to public employees in the performance of their public duties) in any manner revealing the employing unit's or individual's identity, but any party to a hearing before an appeals referee or the Commission shall be supplied with information from such records to the extent necessary for the proper presentation of his case, *provided,* that the Commission shall upon request in writing from any employer furnish in writing any information requested concerning claims for benefits with respect to his former employees.

(h) In the discharge of the duties imposed by this act, the appeals referee or duly authorized representative or member of the Commission or the Board of Review as designated by Commission regulations, shall have power to administer oaths and affirmations, take depositions, certify to official acts, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda and other records deemed necessary as evidence in connection with a disputed matter or the administration of this act.

(i) In case of contumacy by, or refusal to obey a subpoena issued to any person, any court of this state within the jurisdiction of which the inquiry is carried on or, within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by an appeals referee or the Board of Review or the Commission or its duly authorized representatives, shall have jurisdiction to issue to such person an order requiring such person to appear before a commissioner, an appeals referee, or the Board of Review, or the Commission, or its duly authorized representative, there to produce evidence if so ordered or there to give testimony touching the matter under investigation or in question; and any failure to obey such

order of the court may be punished by said court as a contempt thereof. Any person who shall without just cause, fail or refuse to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda and other records, if it is in his power so to do in obedience to a subpoena of an appeals referee, or the Board of Review, or the Commission shall be punished by a fine of not less than $20 nor more than $200 or by imprisonment for not longer than sixty days or by both such fine and imprisonment; and each day such violation continues shall be deemed to be a separate offense.

(j) No person shall be excused from attending and testifying or from producing books, papers, correspondence, memoranda and other records before the Commission or its representatives or in obedience to the subpoena of the Commission or any member thereof or any duly authorized representative of the Commission in any cause or proceeding before the Commission or its representatives on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

(k) In the administration of this act, the Commission shall cooperate to the fullest extent consistent with the provisions of this act, with the Social Security Board, created by the Social Security Act, approved August 14, 1935, as amended; shall make such reports, in such form and containing such information as the social security board may from time to time require, and shall comply with such provisions as the social security board may from time to time find necessary to assure correctness and verification of such reports.

Upon request therefor the commission shall furnish to any agency of the United States charged with the administration of public works or assistance through public employment the name, address, ordinary occupation and employment status of each recipient of benefits, and such recipient's rights to further benefits under this act.

The commission may afford reasonable cooperation with every agency of the United States charged with the administration of any unemployment insurance law.

(l) The commission or its authorized representatives may upon its own motion or upon application of an employing unit make determinations with respect to whether an employing unit constitutes an employer and whether services performed for, or in connection with the business of, an employer constitute employment for such employing unit. Such determinations may constitute the basis for determination of contribution liability under the provisions of section 35-4-17 (b) and as such be subject to review and appeal as therein provided.

Section 4. Section Amended.

Section 35-4-15, as enacted by Utah Code Annotated 1953, is amended to read:

35–4–15. Special Administrative Expense Fund.

There is hereby created in the State Treasury a special fund to be known as the Special Administrative Expense Fund. All interest and penalties collected on or after July 1, 1949, under the provisions of this act, less refunds made pursuant to the provisions of section 35-4-7 (d), shall be paid into this fund from the clearing account of the fund at the end of each calendar month. Any voluntary contributions tendered as a contribution to this fund and any other monies received for such purpose shall be paid into this fund. Said monies shall not be expended or available for expenditure in any manner which would permit their substitution for (or a corresponding reduction in) federal funds which would in the absence of said monies be available to finance expenditures for the administration of the Employment Security Act, but nothing in this section shall prevent said monies from being used as a revolving fund to cover expenditures (necessary and proper under this act) for which federal funds have been duly requested but not yet received subject to the charging of such expenditures against such funds when received. The monies in this fund shall be deposited, administered, and dispersed in accordance with the directions of the Commission. Said monies shall be used for the payment of costs of administration which are found not to have been properly and validly chargeable against federal grants (or other funds) received for or in the Employment Security Administration Fund on or after July 1, 1949, and may be used for the payment of refunds of interest and penalties pursuant to section 35-4-7 (d). Such monies shall be available either to satisfy the obligations incurred by the Commission directly or by requesting the State Treasurer to transfer the required amounts from the Special Administrative Expense Fund to the Employment Security Administration Fund. The monies in this fund are hereby specifically made available to replace within a reasonable time any monies received by this state pursuant to Section 302 of the Federal Social Security Act as amended, which because of any action of contingency have been lost or have been expended for purposes other than or in amounts in excess of those necessary for the proper administration of the Employment Security Act. The monies in this fund shall be continuously available to the Commission for expenditure in accordance with the provisions of this section and shall not lapse at any time or be transferred to any other fund except as herein provided. The State Treasurer shall pay all warrants drawn upon it by the Commission or its duly authorized agent in accordance with such regulations as the Commission shall prescribe. Monies in this fund shall not be commingled with other state funds but shall be maintained in a separate account on the books of a depository bank. Such monies shall be secured by the depository in which they are held to the same extent and in the same manner as required by the general depository law of the state and collateral pledged shall be maintained in a separate custody account. The State Treasurer shall be liable on his official bond for the faithful performance of his duties in connection with the Special Administrative Expense Fund provided for under this act. Such liability on the official bond shall be effective July 1, 1949, and such liability shall exist in addition to any liability upon any separate bond existent on the effective date of this provision or which may be given in the future. All sums recovered on any

surety bond losses sustained by the Special Administrative Expense Fund shall be deposited in said fund.

Section 5. Effective Date.

This act shall take effect upon approval.

Approved March 18, 1957.

CHAPTER 65

H. B. No. 166. (Passed March 12, 1957. In effect March 18, 1957.)

OFFICE BUILDING FOR EMPLOYMENT SECURITY DEPARTMENT

An Act Making an Appropriation of $132,000 and Other Monies to the Department of Employment Security of the Industrial Commission from this State's Account in the Unemployment Trust Fund Consisting of Monies Collected Under the Federal Unemployment Tax Act and Transferred to this State Pursuant to the Federal Employment Security Administrative Financing Act of 1954; to be Used for Administrative Expenses in Carrying Out Community Employment Programs and for the Purpose of Purchasing Lots and the Erection Thereon of Employment Security Office Buildings.

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

Section 1. Section Enacted — Administrative Expense Appropriation — Community Employment Programs — Office Buildings.

There is hereby appropriated to the Department of Employment Security of the Industrial Commission from the monies transferred to the state's account in the unemployment trust fund pursuant to the Federal Employment Security Administrative Financing Act of 1954 the sum of $132,000 together with such other monies as are transferred to such account during the two-year period commencing with the date of enactment hereof. Such monies are available for withdrawal and expenditure in accordance with Section 2 hereof; provided, that the amount which may be used during each such fiscal year or part thereof which falls within such two-year period shall not exceed the amount by which the aggregate of the amounts credited to this state's account in the fund pursuant to Section 903 of the Social Security Act during such fiscal year and the two preceding fiscal years exceeds the aggregate of the amounts used by the state pursuant to such section and charged against the amounts credited to the account of this state during such three fiscal years.

Such appropriated monies shall be requisitioned and shall be deposited to and expended from the employment security administration fund but until expended shall remain a part of the unemployment trust fund. If any money so deposited is, for any reason, not to be expended for the purpose for which it was appropriated or remains unexpended at the end of the period for which appropriated by this Act, such money shall, not later than the end of the period for which appropriated, be withdrawn

and returned to the Secretary of the Treasury of the United States to the credit of this state's account in the unemployment trust fund.

Section 2. Authorized Expenditures.

The Industrial Commission of Utah, Department of Employment Security, is hereby authorized to expend during the two-year period commencing with the date of enactment hereof such appropriated monies during the fiscal years and in the amounts and for such purposes as follows:

For the fiscal year 1957: For the purpose of working with local communities in the development of community employment programs—$25,000.

For the fiscal year 1958: For the purpose of working with local communities in the development of community employment programs—$50,000.

For the fiscal year 1959: For the purpose of working with local communities in the development of community employment programs—$35,000.

For the fiscal year 1958: For the purchase of land and erection of local employment security office buildings thereon—$60,000.

For the fiscal year 1959: For the purchase of land and erection of local employment security office buildings thereon—$225,000.

Section 3. Effective date.

This Act shall take effect upon approval.

Approved March 18, 1957.

LEGISLATURE

CHAPTER 66

S. B. No. 24. (Passed February 20, 1957. In effect May 14, 1957

LEGISLATIVE AUDITOR

An Act Enacting New Sections to be Known as Sections 36-4-13, 36-4-14, 36-4-15 and 36-4-16, Utah Code Annotated 1953, Relating to the Establishment of a Legislative Auditor, Defining His Duties, Providing for His Appointment and the Financing of His Office.

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

Section 1. Sections Enacted.

Sections 36-4-13, 36-4-14, 36-4-15 and 36-4-16, Utah Code Annotated 1953, are enacted to read:

36-4-13. Legislative Auditor Position Established — Appointment — Salary.

There shall be established within the Utah legislative council the office of legislative auditor. The legislative auditor shall be appointed and serve at the pleasure of the legislative council. The legislative council shall fix the salary of the legislative auditor and he shall work under its supervision and direction. His appointment shall be solely on the basis of qualifications as determined by the council, based on training and

experience in public accounting, taxation and public finance. The legislative auditor, with the approval of the council, may employ necessary assistants and fix their salaries.

36–4–14. Duties of Legislative Auditor.

The functions of the legislative auditor shall include:

1. Examining or auditing functions or services authorized by the legislature to determine if funds are expended according to legislative intent and whether improvements in organization and performance are possible. The examining function would also appraise functions for needed reforms.
2. Examination of public funds and the study of state and local taxes to develop a plan of taxation and finance to meet state and local needs.
3. A study of local government functions to determine organizational patterns and financial plans.
4. Preparation of plans for legislative appropriation and control of funds, with pre-session analysis of budgetary requirements.
5. A study of capital outlay needs for the orderly and coordinated development of state institutions and institutional programs authorized if not otherwise provided by law.
6. Other special audits or examinations requested by the legislature or the governor.
7. To cooperate with any state or local planning agencies for the development and financing of governmental services.
8. To work under the immediate supervision of the Director of the Legislative Council and to assist him with the assignments of the Legislative Council included but not limited to the functions enumerated above.

36–4–15. Report of Legislative Auditor to Legislative Council.

The legislative auditor shall report his findings and recommendations to the legislative council, the governor and the members of the next succeeding legislature at least 30 days prior to the convening of the regular session of the legislature and during such session as he may deem necessary or as requested by any member of the legislature.

36–4–16. Funds for Legislative Auditor Office.

Funds for the support of the office of legislative auditor shall be provided by legislative appropriations to the legislative council.

Approved February 27, 1957.

LIBRARIES

CHAPTER 67

S.B. No. 241. (Passed March 13, 1957. In effect May 14, 1957.)

STATE LIBRARY — CHANGE OF NAME

An Act Amending Sections 37-1-1, 37-1-2, 37-1-3, 37-1-4, 37-1-5, 37-1-6, 37-1-7, 37-1-8, 37-1-9, 37-1-10, 37-1-11, 37-1-12, and 78-2–10, Utah Code Annotated 1953, Relating to the State Library; and Providing for the Name to be Changed to the State Law Library.

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

Section 1. Sections Amended.

Sections 37-1-1, 37-1-2, 37-1-3, 37-1-4, 37-1-5, 37-1-6, 37-1-7, 37–1–8, 37-1-9, 37-1-10, 37-1-11, 37-1-12, and 78–2–10, Utah Code Annotated 1953, are amended to read:

37–1–1. Board of Control.

The governor, the secretary of state and the justices of the Supreme Court shall constitute board of control of the state law library.

37–1–2. Open to Public — Rules and Regulations — Penalties.

The public shall have access to the state law library. The board of control may make such rules and regulations not inconsistent with the provisions of this chapter as it may deeem proper for its use, and may prescribe and enforce penalties for any violation thereof, which shall be collected in the same manner as penalties for the nonreturn or injury of any book.

37–1–3. Withdrawal of Books—Limitations.

Books may be taken from the state law library by the members and officers of the legislature, the officers of the executive departments and of the several boards and commissions of the state government, the justices of the Supreme Court and the judges of the district courts, but no other person shall be permitted to withdraw any book from the library.

37–1–4. Register of Books Issued and Returned—Time Limit on Withdrawals.

The state law librarian shall keep a register of all books issued and returned, showing to whom issued, by whom returned, and the time issued and returned. No book taken from the law library shall be detained more than ten days, except when taken for the use of officers and members of the legislature while it is in session, and all books so taken shall be returned at the close of the session.

37–1–5. Injury to and Failure to Return Books—Liability—Action.

If any person injures or fails to return any book taken from the law library, he shall pay to the law librarian for the use of the law library all loss or damage sustained thereby, including costs and reasonable attorneys' fees for collecting the same, to be recovered in an action in the name of the state, and it shall be the duty of the law librarian in behalf of the state to bring action for the collection of all damages so sustained and all penalties imposed.

37–1–6. Annual Report by Librarian—Contents.

On or before the 1st day of October in each year the law librarian shall report to the governor the condition of the law library, stating the number of volumes contained therein, the number purchased during the preceding year and the cost thereof, the number received by donation,

the number injured or not returned, if any, and the amounts received in compensation therefor, and such suggestions and further information as may be deemed by him desirable.

37-1-7. Catalogue of Books—Rules to be Posted.

The law librarian shall catalogue all books, pamphlets, maps, charts, globes, papers, apparatus and valuable specimens in the law library and shall post in some conspicuous place a copy of the rules and regulations of the law library. The catalogue shall be printed and distributed to the officers entitled to withdraw books from the law library.

37-1-8. Books to be Stamped and Labeled.

The law librarian shall cause every book in the law library to be labeled with a printed or stamped label containing the words "Utah State Law Library," and shall cause the same words to be written or stamped on one or more pages of each volume.

37-1-9. Sale or Exchange of Books.

The board of control of the law library may sell or exchange any surplus or duplicate sets of books in the law library and use the money arising from such sale in purchasing other books for the law library.

37-1-10. Liability of Librarian.

If the law librarian permits any person not authorized by this chapter to take a book from the law library, he shall be liable to pay a fine of not less than $5 nor more than $50 for each book so taken.

37-1-11. Wrongful Withdrawal of Books.

If any person not authorized by this chapter takes a book from the library, either with or without the consent of the law librarian, or violates any of the provisions of this chapter, he shall be fined in any sum not less than $10 nor more than $50 for each book so taken.

37-1-12. Disposition of Fines and Penalties.

All fines and penalties collected pursuant to the provisions of this chapter shall be paid into the state treasury for the benefit of the state law library.

78-2-10. Librarian of State Library—Distribution of Volumes of Reports.

The clerk shall act as law librarian for the state; he shall take charge of, keep and preserve the state law library as provided by law. As soon as he receives the bound reports of the decisions of the Supreme Court, he shall distribute a sufficient number as follows: to the Library of Congress and to the state law library, each two copies; to such of the states and territories of the United States as will exchange reports with this state, each one copy; to the governor, to the United State district judge for this state, to the justices of the Supreme Court, to the judges of the district courts, to the attorney general, to district attorneys, to county attorneys, each one copy; and to clerks of the district courts, each one copy for each division of the district court in his county.

Approved March 22, 1957.

CHAPTER 68

S. B. No. 86. (Passed March 11, 1957. In effect May 14, 1957.)

STATE LIBRARY COMMISSION

An Act Appropriating $100,000 from the General Fund to Provide for the Establishment of a State Library and Library Services Under the Direction of a State Library Commission; Providing for the Appointment, Qualifications, Powers, Duties, and Compensation of a State Director of Libraries; Providing for Reports, Violations, Penalties, and an Appropriation.

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

Section 1. The Utah State Library.

The library provided for in this act shall hereafter be known as the Utah state library.

Section 2. Under Direction of State Library Commission—Functions.

The Utah state library shall be under the management and direction of a state library commission which shall be administered by a state director of libraries. The functions of the state library shall include general library services, extension services, the preservation, distribution and exchange of state publications, legislative reference and other special services that may be deemed in the province of a state library.

Section 3. State Library Commission Established.

There is established a state library commission composed of nine members appointed by the governor, with the advice and consent of the senate. The appointment shall be for six year overlapping terms. Initially three members shall be appointed for two year terms, three members for four year terms, and three members for six year terms. One shall be appointed on recommendation from each of the following agencies: state department of public instruction, the law library board, the legislative council, and the state historical society board. Of the five remaining members at least two shall be appointed from rural areas.

The secretary of state shall be a member ex-officio of the state library commission. The commission shall select its own chairman, who shall serve for a period of two years. The state director of libraries shall act as secretary to the commission.

The members of the state library commission shall serve without pay, but their actual and necessary expenses incurred in the performance of their official duties shall be paid from state library funds.

Section 4. Powers and Duties.

The state library commission shall have the following powers and duties pertaining to the operation of a state library and state library services:

1. Shall promote, develop and organize a state library and make provision for its housing;

2. Shall promote and develop library services throughout the state in cooperation with any and all other state or municipal libraries, schools or other agencies wherever practical;

3. Shall promote the establishment of district, regional or multi-county libraries as conditions within particular areas of the state may require;

4. Shall have supervision of the books and materials of the state library and shall require careful and complete records of the condition and affairs of the state library to be kept;

5. Shall on the recommendation of the state director of libraries appoint and employ all professional, clerical or other help needed in the state library system, and shall determine standards for qualification and compensation;

6. Shall make rules and regulations and establish standards for the administration of the Utah state library, and for the control, distribution and lending of books and materials to those libraries, institutions, groups, or individuals entitled to the same through the provisions of this act;

7. Shall serve as the agency of the state for the administration of any state or federal funds which may now or in the future be appropriated to further library development within the state, and shall establish regulations under which such grants shall be made to individual libraries, except that this provision shall not apply to appropriations made directly to any other agency or institution;

8. Shall aid and provide general advisory assistance in the development of state-wide school library service and encourage contractual and cooperative relations between school and public libraries;

9. Shall give assistance, advice and counsel to all tax supported libraries of any type within the state and to all communities or persons proposing to establish them and may conduct courses and institutes on the approved methods of operation, selection of books, or other activities necessary to the proper administration of a library;

10. Shall furnish or contract for the furnishing of library or information service to state officials, state departments or any groups that, in the opinion of the state director of libraries, warrants the furnishing of such services, particularly by and through the facilities of traveling libraries, to those parts of the state otherwise inadequately supplied by libraries; and where sufficient need exists and if the state director of libraries otherwise deems it advisable, may establish and maintain special departments in the state library to provide library services for professional, occupational and other groups;

11. Shall distribute copies of the official publications of the state library to public schools, colleges, libraries and coordinating agencies within the state, and to a selected list of libraries outside the state, including the library of congress, and shall arrange for the exchange of such publications for those of other states. The various officers of the state shall send to the state library multiple copies as requested of all publications issued at state expense, except reports of the supreme court;

12. Shall require that information and statistics necessary to the work of the state library be collected, and that findings and reports thereon be published;

13. Shall make a biennial report concerning the activities of the state library to the governor, as he may require.

Section 5. Director of Libraries to Supervise.

The state library commission shall appoint with the consent of the governor a full-time director of libraries who shall have the immediate supervision of the Utah state library. The state director of libraries shall have a degree from a library school approved by the American library association or its equivalent in training and experience plus demonstrated administrative ability.

Section 6. State Director of Libraries to be Executive Officer of State Library Commission.

The state director of libraries shall act as executive officer for the state library commission and shall under their direction see that the responsibilities enumerated in section 4 above are carried out.

Section 7. Duties and Powers.

The Utah state library is hereby empowered:

1. To cooperate with other state or national libraries or library agencies;

2. To cooperate with the federal government or agencies thereof in accepting federal aid whether in the form of funds or otherwise; and

3. To receive bequests, gifts and endowments of money or property and the state library commission is authorized to deposit such funds with the state treasurer or to invest funds with the approval of the state finance commission and to use money and property received in accordance with directions of the donor. Unless the donor directs otherwise, such funds and property shall remain intact, the Utah state library using the interest thereon or annual proceeds therefrom for current expenses, and such funds and property shall not lapse or otherwise become part of the state general fund. The state library commission shall keep a correct account of funds and property received, held or disbursed by it, and shall make the necessary reports thereon to the governor.

All fees paid to the library and collections made due to damaged books or through sale or exchange of books and other materials shall be retained for the use and benefit of the state library.

Section 8. Submission of Reports by Libraries to State Director.

All municipal, city, county and public school libraries shall submit their annual report to the state director of libraries on the condition and affairs of each respective library as required by the state library commission.

Section 9. Power to Contract with Non-public Libraries.

The state director of libraries, subject to the direction and approval of the state library commission, shall have the power to contract with non-public libraries to receive library services from and otherwise coordiante the state library program with said libraries.

Section 10. Damage to Property—Misdemeanor.

Whoever intentionally defaces, injures, or refuses to return on demand, or destroys any property belonging to the state library or loaned through its coordinating agencies or facilities, shall be guilty of a misdemeanor.

Section 11. Appropriation.

There is appropriated to the Utah state library for the period July 1, 1957 to June 30, 1959 from the general fund the sum of $100,000, or so much thereof as may be needed, for the salary of the director, other necessary personnel and the supervision and maintenance of and for the initial purchase of books and materials for the Utah state library.

Section 12. Multi-County, District or Regional Libraries Authorized.

There is authorized the establishment of multi-county, district or regional libraries to promote the organization and operation of such libraries as desirable to invite coordinated effort and to avoid unnecessary duplication in maintenance and operation, and to stimulate the widest possible use of books and other library materials. Two or more counties may join to establish, equip, maintain, operate and support (including purchasing land, constructing and equipping buildings) a multi-county library or district library under the terms of a contract to which all participating counties agree. A multi-county library may be established either by: (1) the boards of county commissioners of two or more counties on their own initiative, or (2) upon the petition of 100 qualified voters of each county. In the latter alternative, the board of county commissioners shall submit to a vote of the qualified electorate thereof at the next general election, or at a special election held therein, whether a multi-county library shall be established or not, and if a majority of the electors voting on the question vote in favor of the establishment of a multi-county library, the boards of county commissioners shall forthwith establish one. No county, however, shall be included in such a district if a majority of the voters are unfavorable to inclusion.

Approved March 26, 1957.

MILITIA AND ARMORIES

CHAPTER 69

S. B. No. 228. (Passed March 12, 1957. In effect May 14, 1957.)

ADJUTANT GENERAL—ASSISTANTS—SALARIES

An Act Amending Sections 39-1-18 and 39-1-21, Utah Code Annotated 1953, as Amended by Chapter 64, Laws of Utah 1955, Relating to the Duties, Qualifications and Salary of the Assistant Adjutant General, the Duties, Qualifications and Salary of the Personnel Officer, and the Salary, Bond and Duties of the Adjutant General; Increasing the Salary of the Assistant Adjutant General to $7,500.00 Per Year, Increasing the Salary of the Personnel Officer to $6,000.00 Per Year and Increasing the Salary of the Adjutant General to $9,000.00 Per Year.

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

Section 1. Sections Amended.

Sections 39-1-18 and 39-1-21, Utah Code Annotated 1953, as amended by Chapter 64, Laws of Utah 1955, are amended to read:

39–1–18. Assistant Adjutant General Authorized — Personnel Officer Authorized—Duties of Each—Salaries.

The adjutant general with the approval of the governor may detail one commissioned officer of the national guard for permanent duty at his office as the assistant adjutant general. He shall be a federally recognized commissioned officer of the Utah National Guard with not less than five years military service in the armed forces of the State of Utah or of the United States, at least three of which shall have been commissioned in the national guard of Utah and who shall have reached the grade of field officer. He shall hold office at the pleasure of the adjutant general. The assistant adjutant general shall receive a salary of $7,500.00 per year. He shall devote all of his time during office hours of the military department to the duties of his office. The adjutant general, with the approval of the governor, may detail one officer of the Utah national guard for permanent duty as the personnel officer. He shall be a federally recognized commissioned officer of the Utah national guard with not less than three years military service in the armed forces of the state of Utah or of the United States, one of which shall have been commissioned in the national guard of Utah. He shall hold office at the pleasure of the adjutant general. The personnel officer shall receive a salary of $6,000.00 per year. The duties of the personnel officer shall be such duties as the adjutant general may direct, to include the normal duty of the staff G-1 and G-2. He shall function as a state recruiting officer and also as a state public relations officer and shall devote all of his time during the office hours of the military department to the duties of his office.

39–1–21. Salary of Adjutant General.

The adjutant general shall receive a salary of $9,000.00 per year. He shall give an official bond to the state in the penal sum of $10,000.00 to cover all duties imposed and offices conferred by law or authority on the adjutant general. He shall devote all of his time during the office hours of the military department to the duties of his office.

Approved March 20, 1957.

MOTOR VEHICLES

CHAPTER 70

H. B. No. 32. (Passed March 9, 1957. In effect May 14, 1957.)

REGISTRATION PLATES—NATIONAL GUARD

An Act Amending Sections 41-1-44, 41-1-45 and 41-1-131, Utah Code Annotated, 1953, Relating to: the Registration Plates Assigned to Motor Vehicles and Providing a Special Type License Plate for Active Members of the National Guard of the State of Utah.

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

Section 1. Sections Amended. Sections 41-1-44, 41-1-45 and 41-1-131, Utah Code Annotated, 1953, are amended to read:

41–1–44. Required Letters & Numerals—Special Numbers for National Guard.

Every registration plate shall have displayed upon it the registration number assigned to the vehicle for which it is issued, also the name of this State, which may be abbreviated, and the year number for which it is isused or the date of expiration thereof, *provided, however,* that registration plates issued to active members of the National Guard of the State of Utah shall bear a special serial number and the words "National Guard."

41–1–45. Plates to be Legible from 100 Feet.

Such registration plate and the required letters and numerals thereon, except the year number for which issued, and the words "National Guard," shall be of sufficient size to be plainly readable from a distance of 100 feet during day light.

41–1–131. Exemptions from Registration.

(a) No fee shall be charged for the registration of motor ambulances, motor police patrol vehicles, motor fire engines, passenger cars and trucks owned by the United States government or by the State of Utah or any of its political subdivisions, but all such vehicles shall be registered and given a number, which number shall be displayed in like manner to that provided for other motor vehicles. No fee shall be charged such municipal corporations for the issuance of any certificate of title or duplicate certificate of registration.

(b) A $25 fee shall be charged for the registration of any private owned motor buses used or maintained for the transportation of students and their instructors in the necessary activities of public or private schools of the State of Utah and educational purposes but all such vehicles shall be registered and given a number which number shall be displayed in like manner to that provided for other motor vehicles.

Approved March 15, 1957.

CHAPTER 71

H. B. No. 197. (Passed March 13, 1957. In effect March 20, 1957.)

REGISTRATION PLATES—TRAILERS AND SEMI-TRAILERS

An Act Amending Section 41-1-62, Utah Code Annotated 1953, Relating to the Registration Fees for Motor Vehicles, Trailers and Semitrailers, Providing for Transfer of License Plates.

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

Section 1. Section Amended.

Section 41-1-62, Utah Code Annotated 1953, is amended as follows:

41–1–62. Transfer by Owner.

Whenever the owner of a registered vehicle transfers or assigns his title, or interest, thereto, the registration of said vehicle shall expire. The owner shall remove the registration plates therefrom and within

20 days from the date of transfer shall forward the same to the department to be destroyed or may have such plates and the registration number thereon assigned to another vehicle upon the payment of the transfer fee provided by law and subject to the rules and regulations of the department.

Section 2. Effective Date.

This act shall take effect upon approval.

Approved March 20, 1957.

CHAPTER 72

H. B. No. 49. (Passed February 27, 1957. In effect May 14, 1957.)

DRIVER EDUCATION—TAX ON MOTOR VEHICLES

An Act Relating to Motor Vehicles and Driver Education; Enacting New Sections to be Known as Sections 41-1-144, 41-1-145 and 41-1-146, Utah Code Annotated 1953, Providing for an Annual Tax Upon Motor Vehicles, the Manner of its Collection and Creating a Fund to be Known as the Automobile Driver Education Tax Fund.

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

Section 1. Sections Enacted.

There are enacted new sections of law to be known as Sections 41-1-144, 41-1-145 and 41-1-146, Utah Code Annotated 1953, to read:

41-1-144. Automobile Driver Education Tax.

For the year 1958 and for each year thereafter there is levied and there shall be collected and paid to the state tax commission a tax to be known as the automobile driver education tax. Said tax shall be one dollar upon every motor vehicle to be registered. Said tax shall accrue and shall be collectible upon each motor vehicle under the same conditions and circumstances, shall be subject to the same exemptions and shall be payable in the same manner and times as apply to motor vehicle registration fees pursuant to the provisions of Section 41-1-127, Utah Code Annotated 1953, as amended, provided that said tax shall be paid in full at the time said vehicle is first registered in a calendar year, and shall not be reduced at the time of registration for portions of a year as provided by Section 41-1-130, Utah Code Annotated 1953, and shall not be collectible or payable upon the transfers of registration or issuance or reissuance of certificates of registration or titles or plates contemplated by Section 41-1-133 and 41-1-137, Utah Code Annotated 1953.

41-1-145. Collection of Tax.

The collection and payment of said automobile driver education tax shall be a prerequisite to the registration of any motor vehicle subject to the preceding section.

41-1-146. Funds to be Transmitted to State Treasurer—Credited to Automobile Driver Education Tax Fund.

All of said automobile driver education taxes received and collected pursuant to the foregoing provisions of law shall be transmitted daily to

the state treasurer and shall be placed to the credit of a fund to be known as the automobile driver education tax fund.

The necessary expenses of the state tax commission incurred in the administration and collection of said tax shall be a claim against the automobile driver education tax fund and when paid shall be charged to said fund.

Approved March 5, 1957.

CHAPTER 73

H. B. No. 59. (Passed February 25, 1957. In effect May 14, 1957.)

DRIVERS' LICENSE DIVISION — FEE FOR SEARCH

An Act Authorizing the Drivers' License Division of the Department of Public Safety to Collect a Fee for Searching the Records and Making Reports.

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

Section 1. Section Enacted — Fee for Searching Drivers' License Files. The drivers' license division of the department of public safety shall collect a fee of fifty cents for searching the drivers' license files and making a report when requested by any person or company for a report on the driving record of any person licensed as an operator or chauffeur in the state of Utah.

Section 2. Section Enacted — Fees to be Deposited With State Treasurer in Vehicle Control Fund. That all fees so collected shall be deposited with the state treasurer in the vehicle control fund and shall be disbursed as other moneys in said vehicle control fund.

Section 3. No Charge to Governmental Agencies. *Provided further,* that no charge shall be made for reports furnished to municipal, county, state or federal agencies.

Approved March 14, 1957.

CHAPTER 74

H. B. No. 48. (Passed February 7, 1957. In effect February 16, 1957.)

DRIVER'S LICENSE

An Act Amending Section 41-2-16, Utah Code Annotated 1953, as Amended by Chapter 70, Laws of Utah 1955, Relating to Eye Examinations for Holders of all Operator's and Chauffeur's Licenses, the Expiration, Extension, Renewal, or Issuance of New License Certificates, the Disposition of License Fees, and to Operator's or Chauffeur's Licenses Held by Persons in the Armed Forces of the United States.

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

Section 1. Section Amended.

Section 41-2-16, Utah Code Annotated 1953, as amended by Chapter 70, Laws of Utah 1955, is amended to read:

41-2-16. Operator's License — Expiration — Eye Examination — Renewal of License — Original Licenses — Renewal — Persons in Armed Forces of United States.

(a) Operator's licenses granted without specific expiration dates shall not expire unless the holder thereof has been convicted of three or more moving traffic violations within a period of eighteen months, or fails to comply with provisions regarding eye examinations as hereinafter set forth in paragraph (b).

(b) Holders of good-until-revoked licenses shall on or before January 1, 1957, submit to an eye examination by the department or furnish the department, in person or by mail, a certificate from a person engaged in the practice of medicine and surgery and the treatment of human ailments, or the practice of optometry as defined under Chapter 12 and 16, respectively, of Title 58, Utah Code Annotated 1953, showing their vision, corrected or uncorrected, to be 20/40 or better, and shall submit to such an examination or furnish to the department such a certificate as hereinabove set forth within the last three months of every fifth year after the date of their initial examination. Any person failing to pass said examination or refusing to take said examination or submit said certificate shall surrender his good-until-revoked license and the same shall be cancelled by the department and shall become null and void.

(c) At any time within three months before its expiration the holder of an operator's or chauffeur's license may have said license extended for five years or until revoked, by applying in person or by mail on a department form accompanied by a fee of one dollar and all of a specified part of the license certificate for voiding and surrendering and by passing an eye examination given by the department. A certificate from a qualified person as hereinabove defined showing that the applicant has passed such an examination within the previous three months may be substituted for the examination to be given by the department. Upon extending the privilege, the department shall issue a new license certificate except when it appears that the applicant has been convicted of three or more moving traffic violations within 18 months preceding the date of application.

Original licenses may be renewed without probation. Chauffeur's licenses may be renewed as operator's licenses.

(d) All operator's and chauffeur's license fees, whether for original, renewed or duplicate license certificates, shall be transmitted daily to the state treasurer and placed in a special fund to be known as the vehicle control fund. The vehicle control fund, or so much thereof as may be necessary, shall be used by the department in paying the expenses it may incur in carrying out the provisions of this act. The department shall establish the necessary files, application blanks, license certificate blanks and clerical help to put into effect the provisions of this act.

(e) It is hereby provided that Utah operator's and chauffeur's licenses held by persons ordered to active duty in any of the armed forces

of the United States shall be honored as valid until ninety days after the person has been discharged or has left the service, unless such license is suspended or revoked for cause by the department.

Section 2. Effective Date.
This act shall take effect upon approval.
Approved February 16, 1957.

CHAPTER 75

H. B. No. 162. (Passed March 14, 1957. In effect May 14, 1957.)

DRIVING WHILE UNDER INFLUENCE OF LIQUOR

An Act Amending Sections 41-6-43 and 41-6-44, Utah Code Annotated 1953 Relating to Driving a Motor Vehicle While Intoxicated or under the Influences of Narcotics; and Providing for an Increased Penalty.

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

Section 1. Section Amended.
Sections 41-6-43 and 41-6-44, Utah Code Annotated 1953 are amended to read:

41–6–43. Powers of Local Authorities.
(a) Local authorities may by ordinance provide that it shall be unlawful for any person who is an habitual user of narcotic drugs or any person who is under the influence of intoxicating liquor or narcotic drugs to drive or be in actual physical control of any vehicle, and provide penalties therefor as a first offense consistent with section 41-6-44.

(b) Local authorities may also by ordinance provide that any person who drives any vehicle in wilful or wanton disregard for the safety of persons or property is guilty of reckless driving, and provide penalties therefor as a first offense consistent with section 41-6-45.

41–6–44. Driving Under Influence of Intoxicating Liquor or Drugs — Criminal Prosecution — Alcohol Tests — Presumption from Alcoholic Content of Blood — Punishment — Revocation of License.
(a) It is unlawful and punishable as provided in subdivision (d) of this section for any person who is an habitual user of narcotic drugs or any person who is under the influence of intoxicating liquor or narcotic drugs to drive or be in actual physical control of any vehicle within this state.

(b) In any criminal prosecution for a violation of subdivision (a) of this section relating to driving a vehicle while under the influence of intoxicating liquor, the amount of alcohol in the defendant's blood at the time alleged as shown by chemical analysis of the defendant's blood, urine, breath, or other bodily substance shall give rise to the following presumptions.

1. If there was at that time 0.05 per cent or less by weight of alcohol in the defendant's blood, it shall be presumed that the defendant was not under the influence of intoxicating liquor;

2. If there was at that time in excess of 0.05 per cent but less than

0.15 per cent by weight of alcohol in the defendant's blood, such fact shall not give rise to any presumption that the defendant was or was not under the influence of intoxicating liquor, but such fact may be considered with other competent evidence in determining the guilt or innocence of the defendant;

3. If there was at that time 0.15 per cent or more by weight of alcohol in the defendant's blood, it shall be presumed that the defendant was under the influence of intoxicating liquor;

4. The foregoing provisions of this subdivision shall not be construed as limiting the introduction of any other competent evidence bearing upon the question whether or not the defendant was under the influence of intoxicating liquor.

(c) It is unlawful and punishable as provided in subdivision (d) of this subsection for any person who is an habitual user of or under the influence of any narcotic drug or who is under the influence of any other drug to a degree which renders him incapable of safely driving a vehicle to drive a vehicle within this state. The fact that any person charged with a violation of this subsection is or has been entitled to use such drug under the laws of this state shall not constitute a defense against any charge of violating this subsection.

(d) Every person who is convicted of a violation of this section shall be punished by imprisonment for not less than 30 days nor more than 6 months, or by a fine of not less than $100 or more than $299, or by both such fine and imprisonment; *provided* that in the event such defendant shall have inflicted a bodily injury upon another as a proximate result of having operated said vehicle in a reckless or negligent manner or with a wanton or reckless disregard of human life or safety, he shall be punished by imprisonment in the county jail for not more than one year and, in the discretion of the court, a fine of not more than $1,000.

The department shall revoke the operator's or chauffeur's license of any person convicted under this section.

Approved March 16, 1957.

CHAPTER 76

H. B. No. 130. (Passed March 13, 1957. In effect May 14, 1957.)

SPEED REGULATIONS

An Act Relating to Motor Vehicles and Amending Section 41-6-46, Utah Code Annotated 1953; Providing for Speed Regulations of Motor Vehicles and Providing that all Motor Vehicles Shall Stop for School Buses Loading and Unloading Children.

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

Section 1. Section Amended.

Section 41-6-46, Utah Code Annotated 1953, is amended to read:

41–6–46. Speed Regulations — Maximum Speeds — Passing School Grounds — Intersections — Passing School Buses — Powers of Governor.

(1) No person shall drive a vehicle on a highway at a speed greater

than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. In every event speed shall be so controlled as may be necessary to avoid colliding with any person, vehicle, or other conveyance on or entering the highway in compliance with legal requirements and the duty of all persons to use due care.

(2) Where no special hazard exists the following speeds shall be lawful but any speed in excess of said limits shall be prima facie evidence that the speed is not reasonable or prudent and that it is unlawful:

(a) Twenty miles per hour.

When passing a school building or the grounds thereof during school recess or while children are going to or leaving school during opening or closing hours; *provided,* that local authorities may require a complete stop before passing a school building or grounds at any of said periods.

(b) Twenty-five miles per hour in any business or residential district.

(c) Sixty miles per hour in other locations during the daytime.

(d) Fifty miles per hour in such other locations during the nighttime. Daytime means from half hour before sunrise to half hour after sunset. Nighttime means at any other hour.

(3) The driver of every vehicle shall, consistent with the requirements of subdivision (1) of this section, drive at an appropriate reduced speed when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway, and when special hazard exists with respect to pedestrians or other traffic or by reason of weather or highway conditions.

(4) The driver of any vehicle upon a highway or street outside a business or residential area upon meeting or overtaking any school bus which has stopped on or adjacent to the highway to allow school children to enter into or alight from the school bus shall bring his vehicle to a full stop and may not start again until the school bus has started, or the school bus driver signals the stopped traffic to proceed; *provided* that such school bus bears upon the front and rear thereof a plainly visible sign containing the words, "school bus" in letters not less than four inches in height which can be removed or covered when the vehicle is not in use as a school bus. *Provided further* that the driver of a vehicle upon a highway with two or more lanes in each direction or upon a highway with separate roadways need not stop upon meeting or passing a school bus which is on a different roadway or when upon a controlled-access highway and the school bus is stopped in a loading zone which is part of or adjacent to such highway and where pedestrians are not permitted to cross the roadway.

(5) *Provided,* that the governor by proclamation, in time of war or national emergency, may upon recommendation of the federal authorities, change the speed on the highways of the state, to conform to such recommendations.

Approved March 16, 1957.

CHAPTER 77

H. B. No. 24. (Passed March 1, 1957. In effect May 14, 1957.)

POSTING OF HIGHWAYS

An Act Amending Section 41-6-48, Utah Code Annotated 1953, Relating to the Posting of Highways, Both State and County, with Signs Giving Notice of a Reduced Speed Zone Ahead.

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

Section 1. Section Amended.
Section 41-6-48, Utah Code Annotated 1953, is amended to read:

41-6-48. Speed Restrictions — Powers of Local Authorities.
(a) Whenever local authorities other than cities of the first class within their respective jurisdictions determine upon the basis of an engineering and traffic investigation that the prima facie speed permitted under this act at any intersection is greater than is reasonable or safe under the conditions found to exist at such intersection, such local authority, shall determine and declare a reasonable and safe prima facie speed limit thereat, which shall be effective when appropriate signs giving notice thereof are erected at such intersection or upon the approaches thereto.

(b) Local authorities other than cities of the first class in their respective jurisdictions may in their discretion, authorize by ordinance higher prima facie speeds than those stated in section 41-6-46 upon through highways or upon highways or portions thereof where there are no intersections or between widely spaced intersections, provided signs are erected giving notice of the authorized speed, but local authorities other than cities of the first class shall not have authority to modify or alter the basic rule set forth in subdivision (a) of section 41-6-46 or in any event to authorize by ordinance a speed in excess of 60 miles per hour during the daytime and 50 miles per hour during the nighttime.

(c) Whenever local authorities other than cities of the first class within their respective jurisdictions determine upon the basis of an engineering and traffic investigation that the prima facie speed permitted under this act upon any highway outside a business or residence district is greater than is reasonable or safe under the conditions found to exist upon such highway such local authority may determine and declare a reasonable and safe prima facie limit thereon but in no event less than 35 miles per hour which reduced prima facie limit shall be effective when appropriate signs giving notice thereof are erected upon such highway. Such highway to be appropriately posted must be posted with reflector type signs whereon the prima facie lawful speed limit shall be designated. Wherever there is a drop of 10 MPH or more in the posted speed limit, it must be preceded by a sign giving advance notice of such a reduction. Signs shall be as specified in the current approved "Utah Manual On Uniform Traffic Control Devices."

(d) Cities of the first class within their respective jurisdictions may determine and declare reasonable and safe prima facie speed limits but such cities shall not have authority to modify or alter the basic rule set forth in subdivision (a) of section 41-6-46 or in any event to author-

ize by ordinance a speed in excess of 60 miles per hour. Such highway to be appropriately posted must be posted with reflector type signs whereon the prima facie lawful speed limit shall be designated. Wherever there is a drop of 10 MPH or more in the posted speed limit, it must be preceded by a sign giving advance notice of such a reduction. Signs shall be as specified in the current approved "Utah Manual On Uniform Traffic Control Devices."

(e) The state road commission shall have exclusive authority to determine and declare prima facie evidence of a lawful speed on state highways whether such highways be within or without the corporate limits of any city. A state highway, to be appropriately posted, must be posted with reflector-type signs whereon the prima facie lawful speed limit shall be designated. Wherever there is a drop of 10 MPH or more in the posted speed limit, it must be preceded by a sign giving advance notice of such a reduction. Signs shall be as specified in the current approved "Utah Manual On Uniform Traffic Control Devices."

Section 2. Section Enacted — Road Signs.

Where road signs, for various reasons, reducing speed are placed on entering a city or town, a stretch of narrow road, or any given hazard on the highway, a Resume Speed Road Sign should be placed at a point beyond the restricted area where it would be safe for any vehicle to resume the maximum speed allowed in any given area.

Approved March 11, 1957.

CHAPTER 78

H. B. No. 240. (Passed March 14, 1957. In effect March 16, 1957.)

TRAFFIC ON HIGHWAYS

An Act Amending Sections 41-6-3, 41-6-43.10 as Enacted by Chapter 71, Laws of Utah 1955, 41-6-63, 41-6-70, as Amended by Chapter 71, Laws of Utah 1955, 41-6-115, 41-6-118, 41-6-119, 41-6-131, 41-6-132, as Amended by Chapter 71, Laws of Utah 1955, 41-6-156, 41-6-157, 41-6-160, 41-6-161, 41-6-162, Utah Code Annotated 1953, Relating to the Regulation of Traffic on Highways and Providing a Penalty for Negligent Homicide.

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

Section 1. Sections Amended.

Sections 41-6-3, 41-6-43.10, 41-6-132, 41-6-156, 41-6-157, 41-6-161, 41-6-162, Utah Code Annotated 1953, are amended to read:

41–6–3. Authorized Emergency Vehicles—School Bus—Tractors.

(a) "Authorized Emergency Vehicle." Vehicles of the fire department, police vehicles, and such ambulances and emergency vehicles of municipal departments or public service corporations as are designated or authorized by the department or local authorities.

(b) "School Bus." Every motor vehicle owned by a public or governmental agency and operated for the transportation of children to or from school or privately owned or operated for compensation for the transportation of children to or from school.

(c) "Truck tractors." Every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

(d) "Farm tractors." Every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

(e) "Road tractor." Every motor vehicle designed and used for drawing other vehicles and not so constructed as to carry any load thereon either independently or any part of the weight of a vehicle or load so drawn.

Section 2. Section Amended.

Section 41-6-43.10, Utah Code Annotated 1953, as enacted by Chapter 71, Laws of Utah 1955, is amended to read:

41–6–43.10. Negligent Homicide — Death Within One Year — Punishment — Revocation of License.

(a) When the death of any person ensues within 1 year as a proximate result of injury received by the driving of any vehicle in reckless disregard of the safety of others, the person so operating such vehicle shall be guilty of negligent homicide.

(b) Any person convicted of negligent homicide shall be punished by imprisonment in the county jail for not more than 1 year or by fine of not less than $100 nor more than $1,000, or both such fine and imprisonment.

(c) The department shall revoke the license or permit to drive and any non-resident operating privilege of any person convicted of negligent homicide.

Section 3. Section Amended.

Section 41-6-63, Utah Code Annotated 1953, is amended to read:

41–6–53. Highways Divided into Separate Roadways by Space, Barrier, Section — Duties of Drivers — Crossing.

Whenever any highway has been divided into two roadways by leaving an intervening space or by a physical barrier or clearly indicated dividing section, every vehicle shall be driven only upon the right hand roadway and no vehicle shall be driven over, across, or within any such dividing space, barrier or section, except through an opening in such physical barrier or dividing section or space or at a cross-over or intersection established by public authority.

Section 4. Section Amended.

Section 41-6-70, Utah Code Annotated 1953, as amended by Chapter 71, Laws of Utah 1955, is amended to read:

41–6–70. Signals Required to be Given by Hand and Arm or Approved Lighting Device.

(a) The signals herein required shall be given either by means of the hand and arm or by a signal of a type approved by the state road commission, except as provided in paragraph (b).

(b) Any motor vehicle in use on a highway shall be equipped with, and required signal shall be given by, a signal lamp or lamps said lamps being of a type approved by the state road commission when the distance

from the center of the top of the steering post to the left outside limit of the body, cab or load of such motor vehicle exceeds 24 inches, or when the distance from the center of the top of the steering post to the rear limit of the body or load thereof exceeds 14 feet. The latter measurement shall apply to any single vehicle, also to any combination of vehicles. The requirements of this section shall become effective January 1, 1958.

Section 5. Section Amended.

Section 41-6-115, Utah Code Annotated 1953, is amended to read:

41–6–115. Road Commission to Regulate Design and Operation of School Buses.

The state road commission and the department, by and with the advice of the state board of education, shall adopt and enforce regulations not inconsistent with this act to govern the design and operation of all school buses for the transportation of school children when owned and operated by any school district or privately owned and operated under contract with any school district in this state and such regulations shall by reference be made a part of any such contract with a school district. Every school district, its officers and employees, and every person employed under contract by a school district shall be subject to said regulations.

Section 6. Section Amended.

Section 41-6-118, Utah Code Annotated 1953, is amended to read:

41–6–118. Lights and Illuminating Devices—Duty to Display—Time — Construction of Requirements.

(a) Every vehicle upon a highway within this state at any time from a half hour after sunset to a half hour before sunrise and at any other time when there is not sufficient light to render clearly discernible persons and vehicles on the highways at a distance of 500 feet ahead shall display lighted lamps and illuminating devices as hereinafter respectively required for different classes of vehicles, subject to exceptions with respect to parked vehicles as hereinafter stated.

(b) Whenever requirement is hereinafter declared as to the distance from which certain lamps and devices shall render objects visible or within which such lamps or devices shall be visible, said provisions shall apply during the times stated in subdivision (a) of this section in respect to a vehicle without load when upon a straight level, unlighted highway under normal atmospheric conditions, unless a different time or condition is expressly stated.

Section 7. Section Amended.

Section 41-6-119, Utah Code Annotated 1953, is amended to read:

41–6–119. Lighting Equipment Required — Specifications — Headlamps.

(a) Every motor vehicle other than a motorcycle or motor-driven cycle shall be equipped with at least two head lamps with at least one on each side of the front of the motor vehicle, which head lamps shall comply with the requirements and limitations set forth in this act.

(b) Every motorcycle and every motor-driven cycle shall be equipped

with at least one and not more than two head lamps which shall comply with the requirements and limitations of this act.

Section 8. Section Amended.

Section 41-6-131, Utah Code Annotated 1953, as amended by Chapter 71, Laws of Utah 1955, is amended to read:

41-6-131. Spot and Fog Lamps — Auxiliary Passing and Driving Lamps.

(a) Any motor vehicle may be equipped with not to exceed two spot lamps and every lighted spot lamp shall be so aimed and used upon aproaching another vehicle that no part of the high-intensity portion of the beam will be directed to the left of the prolongation of the extreme left side of the vehicle nor more than 100 feet ahead of the vehicle.

(b) Any motor vehicle may be equipped with not to exceed two fog lamps mounted on the front at a height not less than 12 inches nor more than 30 inches above the level surface upon which the vehicle stands and so aimed that when the vehicle is not loaded none of the high-intensity portion of the light to the left of the center of the vehicle shall, at a distance of 25 feet ahead, project higher than a level of 4 inches below the level of the center of the lamp from which it comes. Lighted fog lamps meeting the above requirements may be used with lower head lamp beams as specified in section 41-6-134 (b).

Section 9. Section Amended.

Section 41-6-132, Utah Code Annotated 1953, is amended to read:

41-6-132. Signal Lamps or Devices.

Any motor vehicle may be equipped and when required under this act shall be equipped with signal devices approved by the Utah Road Commission showing to the front and rear for the purposes of indicating an intention to turn either to the right or left. When lamps are used for such purpose, the lamps showing to the front shall be located on the same level and as widely spaced laterally as practicable and when in use shall display a white or amber light, or any shade of color between white and amber, visible from a distance of not less than 100 feet to the front in normal sunlight, and the lamps showing to the rear shall be located at the same level and as widely spaced laterally as practicable and when in use shall display a red or amber light, or any shade of color between red and amber visible from a distance of not less than 100 feet to the rear in normal sunlight. When actuated such lamps shall indicate the intended direction of turning by flashing the lights showing to the front and rear on the side toward which the turn is made.

It is further provided that a vehicle properly registered in the State of its legal domicile (meaning the State from which it is most frequently dispatched, garaged, serviced, operated or otherwise controlled and which vehicle is being operated in compliance with the laws of that State) shall not be subject to the requirements of this act pertaining to signal devices.

Section 10. Section Amended

Section 41-6-156, Utah Code Annotated 1953, is amended to read:

41-6-156. Inspection By Officers — Certificate Of Inspection

(a) The members of the state highway patrol or other peace officers, may at any time upon reasonable cause to believe that a vehicle is unsafe or not equipped as required by law, or that its equipment is not in proper adjustment or repair, require the driver of such vehicle to stop and submit such vehicle to an inspection and such test with reference thereto as may be appropriate.

(b) In the event such vehicle and its equipment are found to be in safe condition and in full compliance with the law, the officer making such inspection may issue to the driver an official certificate of inspection and approval of such vehicle, specifying those parts or equipment so inspected and approved.

(c) In the event such vehicle is found to be in unsafe condition or any required part or equipment is not present or is not in proper repair and adjustment, the officer shall give a written notice to the driver and shall send a copy to the department. Said notice shall require that such vehicle be placed in safe condition and its equipment in proper repair and adjustment, specifying the particulars with reference thereto and that a certificate of inspection and approval be obtained within 5 days.

Section 11. Section Amended.

Section 41-6-157, Utah Code Annotated 1953, is amended to read:

41-6-157. Enforcement of Inspection Requirements.

(a) No person driving a vehicle shall refuse to submit such vehicle to an inspection and test when required to do so by an authorized officer of the department or any peace officer.

(b) Every owner or driver, upon receiving a notice as provided in Section 41-6-156, shall comply therewith and shall within 5 days secure an official certificate of inspection and approval which shall be issued in duplicate, one copy to be retained by the owner or driver and the other copy to be forwarded to the department. In lieu of compliance with this subsection the vehicle shall not be operated, except as provided in the next succeeding subsection.

(c) No person shall operate any vehicle after receiving a notice with reference thereto as above provided, except that the members of the department and other peace officers may, when to do so is reasonable and not excessively dangerous, allow the vehicle to be driven to the residence or place of business of the owner or driver or to the nearest garage where repairs are available, and not thereafter, until said vehicle and its equipment has been placed in proper repair and adjustment and otherwise made to conform to the requirements of this act and a certificate of inspection and approval shall be obtained as promptly as possible thereafter.

(d) In the event repair or adjustment of any vehicle or its equipment is found necessary upon inspection, the owner of said vehicle may obtain such repair or adjustment at any place he may choose, but in every event an official certificate of inspection and approval must be obtained, otherwise such vehicle shall not be operated upon the highways of this state.

Section 12. Section Amended.

Section 41-6-158, Utah Code Annotated 1953, is amended to read:

41-6-158. Periodical Inspection Required.

The department shall at least once each year, but not more frequently than twice each year, require that every motor vehicle, trailer, semi-trailer and pole trailer registered in this state be inspected and that an official certificate of inspection and approval be obtained for each such vehicle.

Such inspections shall be made and such certificates obtained with respect to the mechanism, brakes and equipment of every such vehicle as shall be designated by the department.

The department is hereby authorized to make necessary rules and regulations for the administration and enforcement of this section and to designate any period or periods of time during which owners of any vehicles, subject to this section, shall display upon such vehicles certificates of inspection and approval duly issued for such vehicle either upon the lower right hand corner of the windshield thereof when required or upon such vehicle in such position as to be visible from the outside.

(b) The department may authorize the acceptance in this state of a certificate of inspection and approval issued in another state having an inspection law similar to this act and may extend the time within which a certificate shall be obtained by the resident owner of a vehicle which was not in this state during the time an inspection was required.

Section 13. Section Amended.

Section 41-6-160, Utah Code Annotated 1953, is amended to read:

41-6-160. Official Inspection Stations — Permits.

(a) The department shall issue permits for and furnish instructions and all necessary forms to official inspection stations for the inspection of vehicles as herein required and the issuance of official certificates of inspection and approval.

(b) Application for permit shall be made upon an official form and shall be granted only when the department is satisfied that the station is properly equipped and has a competent personnel to make such inspections and adjustments and will be properly conducted. The state road commission before issuing a permit may require the applicant to file a bond conditioned that it will make compensation for any damage to a vehicle during an inspection or adjustment due to negligence on the part of such applicant or its employees.

(c) The department shall properly supervise and cause inspections to be made of such stations and shall revoke and require the surrender of the permit issued to a station which it finds is not properly equipped or conducted. The department shall maintain and post at its office lists of all stations holding permits and of those whose permits have been revoked.

Section 14. Section Amended.

Section 41-6-161, Utah Code Annotated 1953, is amended to read:

41-6-161. Permits Not Transferable — Certificate of Inspection.

(a) No permit for an official station shall be assigned or trans-

ferred or used at any location other than therein designated and every said permit shall be posted in a conspicuous place at the location designated.

(b) The person operating an official inspection station shall issue a certificate of inspection and approval upon an official form to the owner of a vehicle upon inspecting such vehicle and determining that its equipment required hereunder is in good condition and proper adjustment, otherwise no certificate shall be issued. When required by the department record and report shall be made of every inspection and every certificate so issued.

(c) A certificate of inspection and approval may be issued free of charge or a fee of not more than 50 cents may be charged for an inspection and issuance of such certificate.

Section 15. Section Amended.

Section 41-6-162, Utah Code Annotated 1953, is amended to read:

41-6-162. Falsely Representing To Be Official Station.

(a) No person shall in any manner represent any place as an official inspection station unless such station is operating under a valid permit issued by the department.

(b) No person shall issue a certificate of inspection and approval unless then holding a valid permit hereunder.

Section 16. Effective Date.

This act shall take effect upon approval.

Approved March 16, 1957.

CHAPTER 79

S. B. No. 53. (Passed March 11, 1957. In effect May 14, 1957.)

UNSIGHTLY MATERIALS ON HIGHWAYS

An Act Amending Section 41-6-114, Utah Code Annotated 1953, as Amended by Chapter 71, Laws of Utah 1955, Relating to the Throwing of Destructive, Lighted, Injurious and Unsightly Materials on the Highway and Providing That Parks, Public Roads and Highways Be Included in the Affected Areas; Enacting Two New Sections Making the Violation of the Act a Misdemeanor and Directing the State Road Commission to Place Warning Signs.

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

Section 1. Section Amended.

Section 41-6-114, Utah Code Annotated 1953, as amended by Chapter 71, Laws of Utah 1955, is amended to read:

41-6-114. Destructive or Injurious Materials on Highways.

(a) It shall be unlawful for any person to throw, deposit, or discard, or to permit to be dropped, thrown, deposited, or discarded upon any public road, highway, park or recreation area, any glass bottle, glass, nails, tacks, wire, cans, barbed wire, boards, trash of garbage, or any other substance which would or could injure any person, animal, or vehicle upon such public road, highway, park, or recreation area

or which would or could mar or impair the scenic aspect or beauty of such public road, highway, park or recreation area.

(b) Any person who drops, throws, deposits, or dicards, or permits to be dropped, thrown, deposited or discarded, upon any public road, highway, park or recreation area any destructive, injurious or unsightly material shall immediately remove the same or cause it to be removed.

(c) Any person removing a wrecked or damaged vehicle from a public road, highway, park or recreation area shall remove any glass or other injurious substance dropped upon the road or highway or in the park or recreation on area from such vehicle.

(d) It shall be unlawful to throw any lighted material from a moving vehicle.

Section 2. Violation — Misdemeanor.

Any person violating any of the provisions of this section is guilty of a misdemeanor.

Section 3. Warning Signs.

The state road commission shall place adequate warning signs notifying all persons using the public roads, highways, parks or recreation areas, of the provisions of this act, wherever they deem it proper within the state.

Approved March 14, 1957.

CHAPTER 80

H. B. No. 175. (Passed March 14, 1957. In effect May 14, 1957.)

CHEMICAL TESTS FOR OPERATORS

An Act Creating a New Section to be Known as 41-6-44.10, Utah Code Annotated 1953, Relating to Chemical Tests for Persons Suspected of Operating a Motor Vehicle While Under the Influence of Alcohol.

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

41-6-44.10. Section Enacted—Persons Operating Motor Vehicles Deemed to Have Consented to Alcohol Tests—Refusal to Submit —Revocation of License—Hearing in District Court—To Whom Information Available—Who May Test.

(a) Any person who operates a motor vehicle in this state shall be deemed to have given his consent to a chemical test of his breath, blood, urine or saliva for the purpose of determining the alcoholic content of his blood, provided that such test is administered at the direction of a police officer having reasonable grounds to believe such person to have been driving in an intoxicated condition and in accordance with the rules and regulations established by the department. If such person has been placed under arrest and has thereafter been requested to submit to such chemical test and refuses to submit to such chemical test, the test shall not be given. In such event the department shall revoke, for one year, his license or permit to drive. Any person whose license has been cancelled, suspended or revoked by the department under the provisions of this act shall have the right to file a petition within thirty days there-

after for a hearing in the matter in the District Court in the county wherein such person shall reside, and such court is hereby vested with jurisdiction and it shall be its duty to set the matter for trial de novo upon ten days written notice to the department, and thereupon to take testimony and examine into the facts of the case and to determine whether the petitioner's license is subject to cancellation, suspension or revocation under the provisions of this act.

(b) Upon the request of the person who was tested, the results of such test shall be made available to him.

(c) Only a physician, or duly authorized laboratory technician, acting at the request of a police officer can withdraw blood for the purpose of determining the alcoholic content therein. This limitation shall not apply to the taking of a urine, salvia or breath specimen.

(d) The person tested shall be permitted to have a physician of his own choosing administer a chemical test in addition to the one administered at the direction of the police officer.

Approved March 16, 1957.

CHAPTER 81

H. B. No. 215. (Passed March 13, 1957. In effect May 14, 1957.)

SPECIFICATIONS AND GRADES OF GASOLINE

An Act Amending Sections 41-11-35, 41-11-36, 41-11-37, Utah Code Annotated 1953, as Amended by Chapter 68 Laws of Utah 1953, Relating to Motor Fuels, and Enacting a New Section 41-11-34.20, Utah Code Annotated 1953, Establishing Specifications and Grades for Gasoline Sold or Offered for Sale in the State of Utah, and Conferring Powers and Imposing Duties on the State Road Commission.

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

Section 1. Section Enacted.

A new section 41-11-34.20, Utah Code Annotated 1953 is enacted to read:

41-11-34.20. Determination of Octane Ratings.

The department shall not more than twice in each calendar year determine the octane rating for premium gasoline, regular grade gasoline, and third grade gasoline as defined in Sections 41-11-35, 41-11-36, 41-11-37, respectively, which octane rating shall be two octane numbers below that of the weighted average for each grade of gasoline produced by the refineries in the State of Utah.

Section 2. Section Amended.

Section 41-11-35, Utah Code Annotated 1953, as amended by Chapter 68, Laws of Utah 1953, is amended to read:

41-11-35. Premium Gasoline—Minimum Requirements.

Premium gasoline shall be a highly volatile hydrocarbon liquid, free from water and suspended matter and shall comply with or exceed the following minimum requirements:

A clean strip of copper shall show not more than slight discoloration when submerged in the fuel maintained at a temperature of 122 degrees

F. for a period of three hours.

When the thermometer reads 158 degrees F. not less than 10 percent shall be evaporated.

When the thermometer reads 257 degrees F. not less than 50 percent shall be evaporated.

When the thermometer reads 356 degrees F. not less than 90 percent shall be evaporated.

When the distillation end point is reached the thermometer shall not read more than 437 degrees.

The residue shall not exceed 2 percent.

The percent evaporated shall be found by adding the distillation loss to the amount collected in the receiver at each specification temperature.

Sulphur shall not exceed 0.25 percent.

The vapor pressure of samples taken from motor fuel pumps or other dispensing devices shall not exceed 9.5 pounds per square inch during the months of May, June, July, and August and 13.5 pounds per square inch during the months of September, October, November, December, January, February, March and April.

Section 3. Section Amended.

Section 41-11-38, Utah Code Annotated 1953, as amended by Chapter 68, Laws of Utah 1953, is amended to read:

41-11-36. Regular Grade—Minimum Requirements.

Regular grade gasoline shall be a highly volatile hydrocarbon liquid free from water and suspended matter and shall comply with or exceed the following minimum requirements.

A clean strip of copper shall show not more than slight discoloration when submerged in the fuel maintained at a temperature of 122 degrees F. for a period of three hours.

When the thermometer reads 167 degrees F. not less than 10 percent shall be evaporated.

When the thermometer reads 267 degrees F. not lss than 50 percent shall be evaporated.

When the thermometer reads 392 degrees F. not less than 90 percent shall be evaporated.

When the distillation end point is reached the thermometer shall not read more than 437 degrees F.

The residue shall not exceed 2 percent.

The percent evaporated shall be found by adding the distillation loss to the amount collected in the reeciver at each specification temperature.

Sulphur shall not exceed 0.25 percent.

The vapor pressure of samples taken from motor fuel pumps or other dispensing devices shall not exceed 9.5 pounds per square inch during the months of May, June, July and August and 13.5 pounds per square inch during the months of September, October, November, December, January, February, March and April.

Section 4. Section Amended.

Section 41-11-37, Utah Code Annotated 1953, as amended by Chapter 68, Laws of Utah 1953, is amended to read:

41-11-37. Third Grade Gasoline—Minimum Requirements.

Third grade gasoline shall be a highly volatile hydrocarbon liquid free

from water and suspended matter.

A clean strip of copper shall show not more than slight discoloration when submerged in the fuel maintained at a temperature of 122 degrees F. for a period of three hours.

When the thermometer reads 167 degrees F. not less than 10 percent shall be evaporated.

When the thermometer reads 284 degrees F. not less than 50 percent shall be evaporated.

When the thermometer reads 392 degrees F. not less than 90 percent shall be evaporated.

When the distillation end point is reached the thermometer shall not read more than 437 degrees F.

The residue shall not exceed 2 percent.

The percent evaporated shall be found by adding the distillation loss to the amount collected in the receiver at each specification temperature.

Sulphur shall not exceed 0.25 percent.

The vapor pressure of samples taken from motor fuel pumps or other dispensing devices shall not exceed 9.5 pounds per square inch during the months of May, June, July, and August and 13.5 pounds per square inch during the months of September, October, November, December, January, February, March and April.

Approved March 18, 1957.

CHAPTER 82

H. B. No. 193. (Passed March 13, 1957. In effect May 14, 1957.)

MOTOR FUELS TAX — DISTRIBUTION OF RECEIPTS

An Act Amending Section 41-11-71, Utah Code Annotated 1953, Providing That All Moneys Collected Under Said Act Shall Be Credited to the State Highway Construction and Maintenance Fund and Further Providing for the Payment of Refunds Under Said Act from Said State Highway Construction and Maintenance Fund.

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

Section 1. Section Amended.

Section 41-11-71, Utah Code Annotated 1953, is amended to read:

41-11-71. Distribution of Receipts.

All moneys received by the commission under the provisions of this act shall be deposited daily with the state treasurer who shall credit all of the said moneys collected to the state highway construction and maintenance fund, from which fund an appropriation shall be made to the commission to cover expenses incurred in the administration and enforcement of this act and the collection of the excise tax. Refunds to which taxpayers shall be entitled under the provisions of this act including refunds due taxpayers on the effective date of this act shall be paid from the state highway construction and maintenance fund.

Approved March 18, 1957.

CHAPTER 83

H. B. No. 94. (Passed March 11, 1957. In effect May 14, 1957.)

MOTOR FUELS TAX — AMOUNT

An Act Amending Sections 41-11-6, Utah Code Annotated 1953, as Amended by Chapter 67, Laws of Utah 1953 and Chapter 74, Laws of Utah 1955 and 41-11-8, Utah Code Annotated 1953, as Amended by Chapter 75, Laws of Utah 1955 and 41-11-11, Utah Code Annotated 1953, as Amended by Chapter 67, Laws of Utah 1953 and 41-11-50, Utah Code Annotated 1953; Providing for: A Six Cents Per Gallon Tax on Motor Fuels, a Two Percent Evaporation Allowance on Motor Fuels, and a Six Cents Per Gallon Tax on Special Fuels.

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

Section 1. Sections Amended.

Sections 41-11-6, Utah Code Annotated 1953, as amended by Chapter 67, Laws of Utah 1953 and Chapter 74, Laws of Utah 1955, 41-11-8, Utah Code Annotated 1953, as amended by Chapter 75, Laws of Utah 1955, 41-11-11, Utah Code Annotated 1953, as amended by Chapter 67, Laws of Utah 1953, and 41-11-50, Utah Code Annotated 1953 are amended to read:

41–11–6. Tax on Fuels—Exemptions—Duty of Distributor and Dealer.

There is hereby levied and imposed a tax of six cents per gallon upon the sale or use of all motor fuels sold, used or received for sale or use in this state, except that upon all gasoline or special fuel sold at airports for airplanes use there is hereby levied and imposed an excise tax of four cents per gallon, excepting such motor fuels sold or used in this state as have been manufactured by low-temperature carbonization within the state of Utah from coals, oil shales, rock asphalts, solid hydrocarbons of Utah, and such motor fuels as are or have been brought into this state and sold in original packages as purely interstate commerce sales and except sales to the United States and its agencies in quantities as to each sale of twelve hundred fifty gallons or more. Producers and refiners shall compute the tax on the amount of motor fuel produced, received or refined in this state, and all distributors shipping motor fuels into this state shall compute the tax on the total amount of gasoline received for sale or use in this state. If any motor fuels have been purchased outside of this state and brought into this state in original packages from a distributor for the use of the consumer, then such tax shall be imposed upon the use of such fuels. It is the purpose and intent of this chapter to impose and levy said tax upon the sale or use of motor fuels as defined in this chapter whether such fuels are used in motor vehicles or for other purposes, and by whomsoever sold or used, including municipalities, counties, school districts and every other arm or branch of the state government and sales to the United States and its agencies in quantities as to each sale of less than twelve hundred fifty gallons.

Every distributor and retail dealer of motor fuels defined in this act shall add the amount of the taxes levied and assessed by this chapter to the price of such motor fuels, it being the purpose and intent of this provision that the tax levied under the provisions of this chapter is in fact a levy on the consumer, and the levy on the distributors as specified

in said chapter is merely as agent of the state for collection of said tax. This provision shall in no way affect the method of collection of said taxes as specified in this chapter.

41-11-8. Deduction for Evaporation and Handling Loss.

From the gross amount of motor fuels produced, received and sold or shipped into the state and sold, used or received for sale or use, there shall be deducted two percent to allow for evaporation and loss in handling and the expenses of collection. Producers and refiners shall report the total amount produced, received or refined and sold in this state from which two percent deduction shall be made, and all distributors shipping into this state shall report the total amount received for sale in this state and from such amount there shall be deducted two percent.

41-11-11. Tax Payable Monthly—Receipting Distributor or Retailer—Aeronautic Fund—Airports—Reports and Returns of Distributors and Dealers.

Said excise tax shall be due and payable by the distributor on or before the twenty-fifth day of each month to the state tax commission for all sales made and for each and every gallon of motor fuel used during the preceding month. The state tax commission shall receipt the distributor therefor and shall pay the same to the state treasurer promptly as collected. Of the money so received the state treasurer shall place an amount equal to the amount received upon the sale or use of motor fuel used or manufactured for use in aircraft in a special fund to be known as the aeronautic fund to be expended under the supervision of the state road commission or such other commission or public authority as may hereafter be created, having within its jurisdiction the supervision and regulation of aeronautics in this state, for the construction, improvement, operation and maintenance of publicly owned airports in this state and for the promotion of aeronautics in this state, and for the payment of the costs and expenses of said commission in administering the provisions of this act or other law conferring upon it the duty of regulating and supervising aeronautics in this state. The amount to be expended on account of each such airport to be seventy-five percent of that proportion of the tax allocated to the aeronautic fund as the amount of fuel delivered at such airport for use in aircraft bears to the total amount of fuel delivered at all such airports for such use. The remaining twenty-five percent shall be expended as the commission, or other designated authority may determine for the promotion, supervision and regulation of aeronautics and for construction, improvement and maintenance of airports in the state. The state tax commission shall require such reports and returns for distributors, retail dealers and users as will enable it to allocate the revenue to be credited to the aeronautics fund as aforesaid and the sources of the same. Any unexpended amount remaining to the account of any airport on the first days of January, April, July and October shall be paid to the public authority operating such airport to be used to help defray operating expenses of such airport. The state treasurer shall place the remainder thereof to the credit of a fund for the payment of interest and sinking fund charges on state road bonds until such funds shall contain an amount which added to any other fund available for the payment of interest and sinking fund charges on state

road bonds will be sufficient to pay all interest and sinking fund charges on state road bonds which shall become due during the calendar year. The state treasurer shall credit the balance of the receipt from said excise tax during the remainder of the calendar year to the credit of the state highway construction and maintenance fund.

41–11–50. Tax on Fuels—Exemptions—Payment and Computation of Tax.

A tax is hereby imposed at the rate of six cents per gallon on the sale or use of special fuel, provided that the sale or use of special fuel for any purpose other than to operate or propel a motor vehicle upon the public highways of Utah shall be exempt from the application of this tax.

The exemption as provided in this section shall apply only in those cases where the purchasers or the users of special fuel shall establish to the satisfaction of the commission that the special fuel purchased or used was used for purposes other than to operate or propel a motor vehicle upon the public highways of Utah.

Provided further; sales made to the United States government or any instrumentality thereof shall be exempt from the tax imposed by this act.

The tax herein provided shall be paid by the user-dealer in all cases where the special fuel is sold within the state of Utah. In all other cases the tax shall be paid by the user of such special fuel, and shall be computed on the number of gallons used which shall be based on the average number of miles per gallon obtained by the user's vehicles.

Approved March 14, 1957.

PENSIONS

CHAPTER 84

S. B. No. 140. (Passed March 14, 1957. In effect May 14, 1957.)

POLICEMEN'S PENSIONS — INCREASE

An Act Amending Sections 49-5-1, 49-5-2, and 49-5-3, Utah Code Annotated 1953, as Amended by Chapter 82, Laws of Utah 1955, Increasing the Amounts and Payments Thereof; Plan and Studies; Provisions for Increased Payment of Death Benefits to Dependents and Widows of Active or Retired Employees; Administration and Mandatory Retirement; and Changing Payment Formula.

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

Section 1. Sections Amended.

Sections 49-5-1, 49-5-2, and 49-5-3, Utah Code Annotated 1953, as amended by Chapter 82, Laws of Utah 1955, are amended to read:

49–5–1. Monthly Pensions—Right To—Retirement Age.

Any person who shall have reached the age of fifty-five years and shall have been continuously in the service of the police department of any city of the first or second class for fifteen years next prior to reaching such age, and who shall have served altogether not less than twenty

years in such department, may at his request or at the option of the city commissioners be retired from active service and receive a monthly pension. Any such employee who has performed fifteen years' active service in such department, but has not reached the age of fifty-five years, may, upon furnishing to the city commissioners satisfactory proof of physical or mental disability which incapacitates him from active service, retire from active service and receive the monthly pension herein provided; if such disability causing retirement results from accident, injury, or exposure while in the performance of duty in the service of said police department, this disability pension shall be applicable after the first day of such active service. The city commissioners may require any disability pensioner under the age of fifty-five years to undergo a medical examination to determine if such pensioner is still incapacitated, physically or mentally, for the performance of service in the police department from which he retired. Such medical examination shall be performed by three licensed physicians, one appointed by the city commissioners, one appointed by the pensioner, and a third named by the first two. If more than one of said physicians shall determine that said pensioner is not so incapacitated, his retirement allowance shall be cancelled forthwith, and he shall be reinstated at his rank at time of retirement to service in said police department. Should any disabled pensioner under the age of fifty-five years, refuse to submit to such medical examination or refuse to return to service, his pension shall be discontinued until his withdrawal of such refusal. An employee entitled to a pension as provided herein must retire from active service and receive the monthly pension upon reaching the age of sixty-five years.

49–5–2. Retirement System on Actuarial Plan—Establishment—Police Pension Fund—Amount of Pension—Death or Resignation of Employee—Administration.

The commissioners of each city shall establish a retirement system on an actuarial plan for the payment of the retirement pensions herein provided, said plan to be effective immediately as to all employees who enter the police civil service subsequent to the effective date of this act and as soon as practicable, but not later than fifteen years thereafter, shall include all employees who would be entitled to the pensions herein provided. Such city shall pay the pension to all persons employed on the effective date of this act who are entitled to receive pensions from its general fund, until said actuarial system is fully operative and thereafter from the police pension fund.

Such system shall provide a fund to be known as the police pension fund which shall be administered and invested by a board composed of city employees designated by said city and shall be deposited with the city treasurer, who shall be the custodian thereof. The fund shall be invested only in such securities as are lawful and proper for trust funds. Five per cent of any part of the compensation paid such employee shall be deducted from his wages each pay day and paid into said fund. The city shall contribute annually from its general fund such additional sums of money as shall be found necessary upon actuarial basis to provide for payment of said pensions. Each employee so retired shall thereafter during his lifetime be paid in monthly installments an annual pension equal

to one-half of his average monthly compensation over the last three years at the time of his retirement. In the event of the separation from the police department of a policeman who does not qualify for the pension, he shall be paid back the amount contributed by him to the pension fund. The city must keep this fund intact and in the amount necessary to meet the payments as determined by the actuarial system. The city commission shall by ordinance make such regulation as may be necessary or proper to govern the administration ot said retirement system.

49-5-3. Payment of Pensions—Amount—Dependents—Widow.

Upon the death of any policeman of any city of the first or second class, the city shall pay from the police pension fund to his widow a monthly pension equal to one-fourth of his average monthly compensation for one year prior to his death, and upon the death of any retired policeman receiving a pension at the time of his death, shall pay to his widow a monthly pension equal to one-half of the amount of the pension such retired policeman was receiving at the time of his death, and to each dependent child of such deceased paid or retired policeman a monthly pension of $25.00 for their support and maintenance. The widow of any such retired policeman shall not be entitled to such pension unless she was his wife at the time of his retirement and death. The payment of the monthly pension for the support and maintenance of the minor children of such paid or retired policeman shall be paid to the person or persons having the care and custody and control of said child or children.

The pension for the widow or for the support and maintenance of any minor children of any policeman as in this section provided for shall begin only after the period has ended for which compensation payments may be made under the provisions of the Workmen's Compensation Act and shall cease upon the death or remarriage of such widow or upon such dependent minor child becoming eighteen years of age or upon his or her marriage.

Approved March 19, 1957.

CHAPTER 85

S. B. No. 132. (Passed March 14, 1957. In effect May 14, 1957.)

FIREMEN'S PENSION FUND — CONTRIBUTIONS

An Act Amending Section 49-6-2, Utah Code Annotated 1953, as Amended by Chapter 83, Laws of Utah 1955, Relating to Firemen's Pension Fund.

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

Section 1. Section Amended.

Section 49-6-2, Utah Code Annotated 1953, as amended by Chapter 83, Laws of Utah 1955, is amended to read:

49-6-2. Source of Fund—Limitation of Amount.

For the purpose of maintaining said fund, fifty per cent of the annual

tax for each year levied, assessed, and collected upon the premiums from property insurance, as this type of insurance is defined by 31-11-4, Utah Code Annotated 1953, and as applied only to fire and allied lines insurance collected by insurance companies within the state is hereby set aside for the use and benefit of said fund. To the fund so created and maintained shall be added five per cent of the monthly salaries of all paid firemen within the state, together with a like amount or matching fund from each city, town, and county having paid firemen, and ten per cent of all monies assessed and collected upon life insurance premiums collected by life insurance companies within the state. The auditor of each city, town, and county having paid firemen shall deduct the sum of five per cent of the salary of each said fireman at the end of each month of each calendar year and shall forward the same, together with a like or matching sum to be paid by such city, town, or county, to the state treasurer to be credited to the state firemen's pension fund. To the fund so created and maintained may be added such cash gifts, donations, and contributions as may be made from time to time. The state treasurer shall receive such cash gifts, donations, and contributions for the benefit of the fund. A paid fireman, after one year of service, and upon termination of his employment for any cause, shall be refunded by the state treasurer 60% of the amount contributed by him from his salary deductions, providing neither such fireman or any member of his family qualify for or are entitled to receive benefits under this act by reason of such employment or termination. Within six months after and as of June 30, 1958, and not to exceed six-year periods after that date, the commission of finance shall make an actuarial investigation into the mortality, service, and other experience among the beneficiaries of this pension, and shall make an actuarial valuation of the assets and liabilities of the Utah firemen's pension fund. Upon the basis of any or all of such investigation, valuation, and determination, but only on the recommendation of a qualified actuary, said commission of finance shall recommend to the legislature any change in the contributions into the funds as shall be deemed necessary—the cost of the investigation to be charged to the said pension fund.

Approved March 19, 1957.

CHAPTER 86

S. B. No. 48. (Passed March 12, 1957. In effect July 1, 1957.)

UTAH HIGHWAY PATROL PENSION

An Act Providing a Retirement System for the Male Employees of the Utah Highway Patrol; Establish a Pension Fund; Source of Monies for the Fund; Granting of Service Pensions to Employees of the Utah Highway Patrol; the Amounts and Payments Thereof; Provisions for Actuarial Studies; Establishing Employees' Contributions; Requiring Employer Contributions to Pay Balance.

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

Section 1. Section Enacted—Highway Patrol Retirement System Created.

There is hereby created a Retirement System for all male employees of the Utah Highway Patrol to be known as the Highway Patrol Retirement System of the State of Utah, said system to be in addition to any existing retirement systems applicable to employees of the Utah Highway Patrol.

Section 2. Definitions.

In this act:

"Commission" shall mean the State Commission of Finance.

"Employees' shall include all male persons included as "Civil Service Employees" or "Employees" as defined and prescribed in and included under the provisions governing the Highway Patrol Civil Service, as set out in Chapter 11 of Title 27, Utah Code Annotated 1953.

"Final Monthly Compensation" shall mean the average monthly compensation received by the employee for the highest three consecutive years preceding his retirement.

Section 3. Utah Highway Patrol Pension Fund—Creation—Administration—Contributions.

The commission shall create and administer a fund known as the Utah Highway Patrol Pension Fund. Said fund shall at all times be kept on deposit with the state treasurer, who shall be the custodian thereof. The fund shall be invested only in such securities as are lawful and proper for trust funds. The commission shall make such regulations as may be necessary or proper to govern the administration of said retirement system. Each employee shall pay 5% of his compensation, and such amount shall be deducted from his wages each payday and paid monthly into said fund. The Highway Patrol shall pay each month into such fund an amount equal to 7.26% of the wages paid in the preceding month for all employees.

Section 4. Retirement—Rates—Death—Pensions.

Any employee who shall have reached the age of fifty-five years after the effective date of this act and shall have been continuously in the paid service of the Utah Highway Patrol for the preceding five years, and who shall have served altogether in said patrol not less than twenty years, may at his request be retired from active service and receive a monthly pension. Each member so retired shall thereafter during his lifetime be paid in monthly installments an annual pension equal to 40% of his final monthly compensation; *provided, however,* that not less than $150.00 per month be paid each employee so retired. Each employee who has reached the age of fifty-five years and has served with the department for twenty-five years, shall thereafter during his lifetime be paid in monthly installments an annual pension equal to forty-five per cent of his final monthly compensation. Each employee who has reached the age of fifty-five years and has served with the department for thirty years, shall thereafter, during his lifetime be paid in monthly installments an annual pension equal to fifty per cent of his final monthly compensation. The Highway Patrol must keep this fund intact and in the amount necessary to meet the payments as determined by the actuarial system.

Upon the death of any retired employee who leaves a surviving widow, there shall be paid to said widow each month during her lifetime a monthly pension equal to one-half of the pension such retired employee was receiving each month at the time of his death.

Each employee shall retire at the age of 62 years, *provided, however,* the appointing authority may retain any employee on a year to year basis after the employee has reached the age of 62 years, but not to exceed a period of three years.

Section 5. Actuarial Study to be Made—Increase or Decrease in Contributions.

An actuarial study shall be made as of June 30, 1960, and every four years thereafter. Such study shall be conducted under the supervision of an actuary and shall cover the mortality, termination, and compensation experience of the employees and beneficiaries, and shall evaluate the assets and liabilities of the retirement fund. Upon the basis of such study and evaluation the commission shall recommend to the Legislature any increase or decrease in percentage rate of contribution made by the Utah Highway Patrol and its employees in order to maintain the retirement fund on an actuarially sound basis. Such percentage shall be computed on the basis of liquidating and accrued liability on account of service prior to the effective date of this act by June 30, 1987.

Section 6. Effective Date.

This act shall be effective July 1, 1957.

Approved March 19, 1957.

CHAPTER 87

S. B. No. 240. (Passed March 13, 1957. In effect March 22, 1957.)

RETIREMENT FOR SUPREME COURT JUSTICES AND DISTRICT JUDGES

An Act Providing for Retirement of Supreme Court Justices and District Court Judges and Providing for Retirement Pay; and an Emergency Clause.

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

Section 1. Sections Enacted — Retirement of Supreme and District Court Judges.

Any person who is now serving or may hereafter serve as a justice of the supreme court or as a judge of the district court of this state, hereinafter referred to as "judge," shall upon retirement from office either by expiration of his term or by resignation or compulsory retirement, be entitled to receive retirement pay as hereinafter provided.

Section 2. Length of Service—Age—Retirement.

Any judge who shall hereafter complete service of a total of ten years or more as a judge as herein defined and shall have attained the age of seventy years, or who shall hereafter complete service of a total of at least twenty years, shall be entitled to resign or retire and to receive for the remainder of his life compensation as provided herein.

Section 3. Resignation Because of Illness.

And judge who because of mental or physical illness becomes substantially and permanently incapacitated to perform the duties of his office shall be deemed to be disabled under this act and may resign from office.

Any judge desiring to resign under this section shall certify to the Governor his disability in writing, who may order a medical examination and report before accepting the resignation.

Section 4. Retirement Pay Upon Disability — Hearing.

Any judge who has had 10 years of service and who becomes disabled as defined in Section 3 shall retire and shall be entitled to the disability retirement compensation provided for in this act. Upon request of the Utah State Bar Commission, a hearing may be had as to whether a judge should retire under this requirement. Whenever a district judge is involved, the hearing and determination shall be by the Supreme Court; whenever a Justice of the Supreme Court is involved, the hearing and determination shall be by the committee of five district judges to be designated by the Governor. At least 20 days prior to the date of such hearing the judge in question shall be notified of the time, place and purpose of such hearing, and he shall be informed of his right to present evidence and to be represented by counsel. Upon determination and certification to the Governor by the Supreme Court, or by such committee, that the judge in question is disabled as defined in Section 3, he shall be placed in retirement status and his office shall be deemed vacant and shall be filled as provided by law.

Section 5. Rate of Retirement Pay.

Each judge whose resignation is accepted, or who is retired under the provisions of this act shall be entitled to receive for the remainder of his life retirement pay at the rate of $350.00 per month to be paid from the general fund.

Section 6. Retirement Act to be Administered in Relation to Utah State Retirement System and Social Security Act.

This retirement act is to be administered in relation to and as complementing the Utah state retirement system and the Federal social security act. Any amounts any judge shall receive from either or both of such systems after retirement shall be deducted from the total retirement compensation allowable under this act, and there shall be paid under the provisions of this act sufficient additional compensation to make up his full retirement allowance under this act.

Section 7. Service Need Not be Continuous.

Service as a judge as herein defined need not be continuous nor rendered entirely after the passage of this act, but must consist of service as hereinabove specified, some part of which must have been rendered after the passage of this act.

Section 8. Constitutionality.

If any provisions of this act, or the application of any provision to any person or circumstance, is held invalid, the remainder of this act shall not be affected thereby.

Section 9. Effective Date.

This act shall take effect upon approval.

Approved March 22, 1957.

PUBLIC FUNDS AND ACCOUNTS

CHAPTER 88

H. B. No. 10. (Passed February 26, 1957. In effect May 14, 1957.)

AUDITS BY CITIES, TOWNS, COUNTIES

An Act Amending Sections 51-2-1, 51-2-2, and 51-2-3 Utah Code Annotated 1953, Relating to Audits by Cities, Towns, Counties and School Districts; Providing for the Withholding of State Funds from Cities, Towns, Counties, or School Districts that do not Comply with Their Respective Audit Requirements; and Providing for the State Auditor to Have Such an Audit Accomplished if any City, Town, County, or School District Fails to Complete an Audit.

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

Section 1. Sections Amended.

Sections 51-2-1, 51-2-2, and 51-2-3, Utah Code Annotated 1953, are amended to read:

51-2-1. Biennial Audits of All Officers Required.

It shall be the duty of the boards of commissioners or city councils of cities of the first and second class and of cities of the third class having a population of over 2500, of counties of the first, second and third classes, and of all boards of education of school districts within these counties, respectively, annually, and of the remaining counties, boards of education of districts within such remaining counties, towns and third class cities under 2500 population at least biennially to have made by or under the immediate direction and supervision of a competent accountant not in the hire of the local governmental unit concerned, a complete audit of the accounts of all officers of their respective cities, towns, counties or school districts having the care, management, collection or disbursement of monies belonging to these respective political subdivisions or appropriated by law or otherwise acquired for their use and benefit. Such audits shall be made in accordance with the uniform classification of accounts as provided by law.

51-2-2. When Audits Must be Made.

Such audit for any fiscal year shall be completed not less than six calendar months after the close of such fiscal year.

51-2-3. Reports of Audits—Copies Thereof When Filed.

All audit reports so made shall be filed and preserved by the governing body of each county, city, town, or school district and copies thereof shall be filed with the State Auditor. Copies of such reports affecting school districts shall also be filed in the office of the Superintendent of Public Instruction. Copies of such audits shall be open to inspection by any interested person or persons wherever filed.

Section 2. Sections Enacted.

Section 51-2-5 and section 51-2-6, Utah Code Annotated 1953, are enacted to read as follows:

51–2–5. Payment of Cost of Audit.

The State Auditor shall withhold state funds sufficient to pay the cost of such audit from any city, county, town or school district that does not comply with its audit requirements as provided in Sections 51-2-1, 51-2-2 and 51-2-3, Utah Code Annotated 1953, as amended. These funds shall be released when the audit requirements are met either voluntarily or by action pursuant to Section 51-2-6, Utah Code Annotated 1953.

51–2–6. Duty of State Auditor to Require New Audit Where Audits Do Not Comply With Statutory Requirements.

The state auditor shall cause an audit to be made of any city, town, county, or school district that does not comply with its respective audit requirements as provided in Sections 51-2-1, 51-2-2, and 51-2-3, Utah Code Annotated 1953, as amended. The state auditor shall contract with a competent independent accountant to complete such an audit and shall remiburse such accountant out of the state funds withheld from such city, town, county, or school district before such funds are released.

Approved March 6, 1957.

PUBLIC SCHOOLS

CHAPTER 89

H. B. No. 121. (Passed March 12, 1957. In effect May 14, 1957.)

STATE BOARD OF EDUCATION QUALIFY FOR FEDERAL FUNDS

An Act Empowering the State Board of Education to Qualify for and Secure Federal Aid for the Construction of Public School Buildings Within the State of Utah.

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

Section 1. Sections Enacted — Declaration of Policy.

The Government of the United States, through its President, has recognized the fact that one of the most difficult problems facing the various states and their communities is that of overcoming the shortage of adequate educational buildings. The President and the National Congress have recognized the fact that unless the Federal Government steps forward to join with the states and their communities, the emergency arising out of school building shortages will continue. As a result, it is apparent that the National Congress is about to enact legislation which will assist the states and their political subdivisions in their efforts to provide adequate facilities by providing them with financial aid. It is the purpose of this act to foresee that it may be necessary for our educational institutions to participate in such federal programs and to enable our State Board of Education to take all steps necessary to qualify for participation therein.

Section 2. Powers of State Board of Education.

For the purpose of participating in any program of assistance by the Government of the United States designed to aid the various states, their political subdivisions and their educational agencies and institu-

tions in providing adequate educational buildings and facilities, the State Board of Education, with the approval of the board of examiners, is hereby empowered:

(1) To develop and implement plans relating to the building of educational buildings for the use and benefit of the various school districts and educational institutions and agencies of the State of Utah. Said plans may conform to the requirements of any federal legislation to such extent as the Board may find necessary to qualify the state and its educational subdivisions, agencies, and institutions for any federal educational building grant-in-aid provided thereby.

(2) To enter into such agreements on behalf of the state of Utah, its school districts and its educational agencies and institutions with the Government of the United States and its agencies, and with the school districts, educational agencies, and institutions of Utah, as may be necessary to comply with any said federal legislation and to secure for them such rights of participation as may be necessary to fulfill the educational building needs of the state.

(3) To accept, allocate, disburse, and otherwise deal with any federal funds or other assets that may be made available therefore by any such federal legislation or program of assistance among the various school districts, public educational agencies, and other public institutions that may be eligible to participate therein.

Approved March 18, 1957.

CHAPTER 90

H. B. No. 133. (Passed March 13, 1957. In effect May 14, 1957.)

COUNTY SCHOOL DISTRICTS—REDISTRICTING

An Act Amending Section 53-4-3, Utah Code Annotated 1953, Relating to the Redistricting of County School Districts.

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

Section 1. Section Amended.

Section 53-4-3, Utah Code Annotated 1953, is amended to read as follows:

53-4-3. Board of Education — Number — Election — Representative Precincts.

The board of education of each county school district shall consist of five members, one member to be elected from and by each of said precincts. The board of county commissioners in which such county school district is located shall, on or before the 15th day of June, 1957 and on or before the 15th day of June every four years thereafter, divide the district into five representative school precincts, and thereafter members of the board of education shall be elected in accordance with such redistricting. If by reason of such redistricting the boundary lines of any representative precinct are so changed that any member of the board from such precinct becomes a nonresident thereof, then such member shall be permitted to retain his membership during the term for which he was elected.

Approved March 20, 1957.

CHAPTER 91

S. B. No. 129. (Passed March 14, 1957. In effect July 1, 1957.)

COMPENSATION OF MEMBERS OF BOARDS OF EDUCATION

An Act Amending Section 53-6-8, Utah Code Annotated 1953, Realting to Compensation and Expenses of Members of Boards of Education; and Providing for an Increase; and the Effective Date.

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

Section 1. Section Amended.

Section 53-6-8, Utah Code Code Annotated 1953, is amended to read:

53-6-8. Board Members—Compensation and Expenses.

The members of each board of education shall fix the compensation to be received for their services; in city school districts at a sum not to exceed $300 each per annum; and in county school districts at a sum not to exceed $300 each per annum and traveling expenses not to exceed $200 each per annum; provided, in county school districts any member living more than 75 miles from the place of meeting may receive not to exceed $300 per annum for traveling expenses, and each board member shall be required to submit an itemized account of traveling expenses, sworn to by him and approved by the board. And provided furthermore, a majority of the membership of any board of education may, in its discretion, authorize the payment of such additional sums for travel expense as it deems reasonable to any board member who attends any educational meeting or convention outside the limits of his school district.

Section 2. Effective Date.

This act shall take effect on July 1, 1957.

Approved March 20, 1957.

CHAPTER 92

H. B. No. 65. (Passed February 21, 1957. In effect May 14, 1957.)

UNIFORM SCHOOL FUND—DISTRIBUTION

An Act Amending Sections 53-7-5, Utah Code Annotated 1953 as Amended by Chapter 27, Laws of Utah 1953, First Special Session; 53-7-5a and 53-7-5b Utah Code Annotated 1953 as Enacted by Chapter 27, Laws of Utah 1953, First Special Session; 53-7-7, Utah Code Annotated 1953 as Amended by Chapter 27, Laws of Utah 1953, First Special Session, and Chapter 94, Laws of Utah 1955; and 53-7-8, Utah Code Annotated 1953 as Amended by Chapter 26, Laws of Utah 1953, First Special Session, Relating to the Cost of Operation of the State-supported Minimum School Program and School Programs; Increasing the Minimum and Maximum Amounts and Percentages of the Formula; Adjusting the Ratios of Distribution Units to Certificated Professional Personnel to Improve School Services; Defining the Amount for Transportation and the State's Contribution and Specifying the Continuation of the Excess Program Authorization by Election.

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

Section 1. Sections Amended.

Sections 53-7-5, Utah Code Annotated 1953 as amended by Chapter 27, Laws of Utah 1953, First Special Session; 53-7-5a and 53-7-5b, Utah Code Annotated 1953 as enacted by Chapter 27, Laws of Utah 1953, First Special Session; 53-7-7, Utah Code Annotated 1953 as amended by Chapter 27, Laws of Utah 1953, First Special Session and Chapter 94, Laws of Utah 1955; and 53-7-8, Utah Code Annotated 1953, as amended by Chapter 26, Laws of Utah 1953, are amended to read:

53–7–5. Cost of Operation per Classroom Unit.

The annual cost of operation and maintenance of the state-supported minimum school program for elementary schools, including kindergarten, and high schools as prescribed by law shall be the total of the following:

(1) The cost of a basic state-supported school program. This shall be determined by multiplying the number of distribution units for each school district, as hereinafter defined and provided, by the amount determined by the district to be required, but which shall be not less than $4050 nor more than $4800, and an additional amount for transportation as hereinafter provided in Section 53-7-7. The amount determined by a district to be required shall be not less than the number of distribution units multiplied by $4800, plus transportation as herein provided, if such district maintains a school program of operation and maintenance the sum total of which exceeds this amount.

(2) An additional cost of a supplemental state-supported program as provided by law. This shall be determined by multiplying the number of distribution units for each school district as hereinafter defined and provided, by the amount determined by such district to be required, but which shall not be more than 12 per cent of the basic state-supported school program.

The term "cost of a supplemental state-supported program" shall include such cost in any school district that authorizes an expenditure greater than the district's basic state-supported program whether or not said district receives a contribution from the state for the support of all or part of said supplemental program. Said term shall not include that portion of said cost which exceeds twelve percent of the basic state-supported program.

(3) An additional amount in the sum of one-half of the budget of the state board of education as approved for the biennium by the legislature.

(4) An additional amount equal to three and one-half per cent (3½%) of the defined annual compensation for members of the Utah School Employees' Retirement System as provided under the Utah School Employees' Retirement Act. "Compensation" for the purpose of this subsection shall not exceed $3600 per year for any member of the Utah School Employees' Retirement System. For purposes of this subsection compensation shall apply only to members of the Utah School Employees' Retirement System who are employed by local school boards, the Union High School at Roosevelt, Utah, the state board of education and the Utah school employees' retirement board.

(5) An additional amount equal to the required employers' contribution under the terms of Title II of the Federal Insurance Contributions Act and in accordance with section 67-11-5, Utah Code Annotated 1953,

for the employing units, political subdivisions and instrumentalities enumerated in subsection 4 of this section.

53-7-5a. Distribution Units, How Number Determined.

The number of distribution units for each year shall be the total of such units for each school district determined as follows:

(1) One unit shall be computed by dividing the average daily attendance of all full-day equivalent pupils of the district attending schools other than kindergarten and approved special and small isolated schools, by twenty-seven.

(2) One unit shall be computed by dividing the average daily attendance of all pupils of the district attending kindergarten other than in approved special and small isolated schools, by fifty. In those districts which do not elect to hold kindergarten for a full nine-month term, the local board of education may approve of a shorter term of six week's duration, and in the event of such approval, the number of pupils in average daily attendance at such short-term kindergarten shall be multiplied by one and one-half and be counted for the purpose of determining the number of units allowed in the same ratio as the number of days the short-term kindergarten is held, not exceeding six weeks, bears to the total number of days schools are held in that district in the regular school year.

(3) One unit shall be allowed for each isolated one-room school, and two units shall be allowed for each isolated two-room school, when approved by the state board of education. Upon application by a district board of education submitted on or before June 1, the state board of education may allow additional distribution units to a school district for the next succeeding school year, one distribution unit for each teacher or teaching principal in schools in which further consolidation or combining of activities is impossible or inadvisable and one unit for each teacher approved for handicapped children. Pupils enrolled in such schools shall not be included in computations under (1) and (2) above, and the number of units thus allowed in any such approved isolated school or special unit shall not exceed the number of teachers including teaching principals employed full-time or full-time equivalent at the school. The state board of education shall adopt standards and regulations to govern the approval of such schools and special classes consistent with principles of efficiency and economy.

(4) One unit shall be allowed for certificated professional non-teaching personnel at the rate of one unit for the district superintendent, plus one for each nine units computed in accordance with the provisions of (1), (2) and (3) above.

(5) A fractional unit shall be allowed for each vocational agriculture or vocational home economics teacher carrying on a program approved by the state board for vocational education beyond the regular school term at the rate of one-third unit for each fourteen weeks.

(6) To avoid penalizing a district financially for epidemics or other factors beyond its control, the state board of education may allow a percentage increase in units otherwise allowable during any year when the ratio between average daily attendance and average daily enrollment drops more than two per cent below the average ratio for the highest two of the preceding three years in such district.

(7) To prevent a district from reducing school services while receiving state aid measured by such presumed service, the total number of units to be allowed each district shall be reduced to the extent that the number of units computed as above exceeds the number of the actually employed certificated professional personnel in the district by a ratio of more than 100 to 92; *provided,* that such ratio may be exceeded to the extent, if any, that the state board of education determines that such differential is due to lack of plant facilities in the district despite adequate effort on the part of such district to meet its plant needs.

53-7-5b. Restriction on Cost of Transportation—State Contribution. The cost of transportation includable in the basic state-supported school program shall be the lesser of:

(a) the sum of $20.00 for each pupil regularly enrolled in kindergarten through grade six who is actually transported one and one-half miles or more each way between home and school, two miles or more each way for each pupil in grades seven through twelve, or

(b) three fourths of the total actual transportation cost.

The state's contribution toward said cost of transportation shall be allocated in the manner set forth in Section 53-7-7.

53-7-7. Distribution of State's Contribution—Manner of Distribution Outlined The contribution of the state to the total cost of the state-supported minimum school program shall be determined and distributed to the various school districts to equalize local differences and to assure to the extent practicable a uniform school program throughout the state, in the manner following:

(1) The State Board of Education annually on or before the first day of August shall ascertain the estimated total cost of the state-supported minimum school program for each of the various school districts for the current school year, including the amount equal to 3½% of the annual compensation of members of the Utah School Employees' Retirement System as defined and an amount equal to the required employer contribution under the terms of Title II of the Federal Insurance Contributions Act as defined, and shall certify the same to the State Tax Commission, setting forth by district the estimated number of distribution units, the cost of the basic state-supported minimum school program as determined by the district, including transportation, the cost of the supplemental state-supported program determined by the district, the cost of the Utah School Employees' Retirement System and the Federal Social Security contributions, and the number of pupils estimated to be in average daily attendance in each district together with the amount of any deficiencies in the state's contribution to the state-supported minimum school program for the preceding years.

(2) The State Tax Commission shall levy on all taxable property of the state an amount which, together with such other funds as are provided by law, will raise the state's contribution to the state-supported minimum school program.

(3) The State Tax Commission, during the first week in September, shall certify to the State Board of Education the amounts designated as state aid for each district determined in accordance with Section 59-

9-2. Funds shall be allocated to the districts upon the basis of the actual cost of the state-supported minimum school program in each district which shall be reported by it within sixty days following the close of the fiscal year. The State Board of Education may make distributions of said funds to the districts from time to time during and after the close of said fiscal year based upon the estimates used by the Board under sub-section (1) of this section, but not later than ninety days after the end of said fiscal year.

(4) The amounts so determined, if any, will constitute the state's contribution to the cost of the state-supported minimum school program of each district. The State Board of Education shall immediately furnish to the Board of Education in each district, a statement of such amounts of state aid.

(5) In the years when the revenues available in the uniform school fund for the school districts are not sufficient to pay the total amount necessary for the state's portion of the total cost of the state-supported minimum school program the State Board of Education shall determine what amount is available per distribution unit. The amount to be distributed to each district shall then be determined by substituting this amount in place of the amount designated as the cost per unit as provided in Section 53-7-5. The school districts shall be reimbursed for any such deficiencies when the state's contributions to the state-supported minimum school program for the next year are paid. Said reimbursement shall be in addition to said succeeding year's school program.

(6) The state's contribution for transportation costs for the basic state-supported minimum school program shall annually be apportioned and distributed from the uniform school fund to the several school districts on the basis of a formula to be promulgated by the State Board of Education. No district shall receive an amount for this purpose which exceeds the amounts actually expended by it for transportation exclusive of capital outlay, during the current fiscal year.

53–7–8. School Programs.

A school district selecting a basic state-supported school program of not less than $4800 per distribution unit, plus transportation, by action of its local board may maintain a school program of operation and maintenance in excess of the cost of the minimum state-supported program both basic and supplemental as determined under section 53-7-5, *provided, however,* the total cost of any school program for operation and maintenance shall not exceed the basic state-supported school program as defined in subsection (1) of section 53-7-5, Utah Code Annotated 1953, as amended, by more than an amount equal to twenty-five per cent of the basic program, or the amount which may be provided by a local levy of not to exceed 8 mills whichever amount is greater. A district may also elect to increase the local levy to provide for an additional ten per cent of the cost of the basic program for the additional purchase of school sites, the erection or remodeling of school buildings and for the equipment of the same, *provided, however,* that such authorization shall not prohibit a district from exercising the authorities granted by other laws relating to capital levies. Such excess cost shall not be included in de-

termining the apportionment of the state school funds and shall be raised by an additional tax levy above the local levies authorized by law. These limitations for the foregoing purposes shall not apply to programs in addition to the state-supported minimum school program which are not financed by a local tax on tangible property, nor to any local levy in addition to the uniform minimum local levy due to under-valuation.

With the consent of a majority of the electors of the district voting at an election or elections held for that purpose in the manner set forth in Section 53-7-12, Utah Code Annotated 1953, any district may maintain a school program in excess of the above mentioned costs in an amount not exceeding an additional 25% of the cost of the basic program. Consideration of such additional program and of modifications, increases or decreases thereof by such elections may be initiated by a petition signed by electors of the district equal to 10 percent of the number of electors who voted at a preceding election on said question or by action of the board of education. A subsequent election upon the question of modifying or increasing such an additional program shall not be deemed to constitute a reconsideration of the existing additional program unless the proposition submitted to the electors expressly so states. Accordingly, a majority vote opposing said modification or increase shall not be deemed to deprive the district of authority to continue said existing additional program. Nothing contained in this section shall be construed as terminating without an election, thereon, the authority of any school district to continue an existing additional program for the percent of a basic unit of $4050, plus transportation, heretofore authorized by the voters.

Approved March 5, 1957.

CHAPTER 93

H. B. No. 246. (Passed March 14, 1957. In effect July 1, 1957.)

UNIFORM SCHOOL FUND—APPROPRIATION

An Act Amending House Bill 242 of the 32nd Legislature, as Passed by Both Houses and Signed by the Governor, and as Further Amended by House Bill 245 of the 32nd Legislature, as Passed by Both Houses, Relating to Appropriations to State Departments, Agencies, Commissions and Institutions by Enacting a New Section to be Known as Section 21 Specifying Terms and Conditions for the General Fund Appropriation to the Uniform School Fund.

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

Section 1. Section Enacted — Amendment to House Bill 242.
House Bill 242 of the 32nd Legislature of the State of Utah, as passed by both houses and signed by the Governor, and as further amended by House Bill 245 of the 32nd Legislature, as passed by both houses, is amended by enacting a new section to be known as Section 21, to read:

Section 21. Appropriation—Uniform School Fund.

In making an appropriation to the Uniform School Fund from the General Fund to assist in financing the state's portion of the minimum school program as provided by law, as contained in Section 20 of House Bill 245 of the 32nd Legislature, it is hereby provided that the appropriation in the sum of $3,600,000 for the period July 1, 1957 to June 30, 1958, and the sum of $7,850,000 for the period July 1, 1958 to June 30, 1959, shall be amended to read: For the period July 1, 1957 to June 30, 1959, $11,450,000.

Provided, that if Senate Bill 33 of the 32nd Legislature is enacted into law, an additional sum of $800,000 is appropriated for the period from July 1, 1957 to June 30, 1959.

If revenues to the General Fund are not sufficient to permit transfers to the Uniform School Fund as herein provided by appropriation, the state fiscal officers, with the approval of the Board of Examiners, shall withhold such transfers for the period July 1, 1957 to June 30, 1959, as in their judgment the available revenues justify, after other appropriations made by law have been allowed.

Section 2. Effective Date.

This act shall take effect July 1, 1957.

Approved March 15, 1957.

CHAPTER 94

S. B. No. 60. (Passed March 11, 1957. In effect May 14, 1957.)

MERIT STUDY COMMITTEE

An Act Amending Section 53-7-5c, Utah Code Annotated 1953, as Enacted by Chapter 93, Laws of Utah 1955, Providing for an Appropriation of $15,000 from the General Fund to the Utah School Merit Study Committee and Specifying a Termination Date.

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

Section 1. Section Amended.

Section 53-7-5c, Utah Code Annotated 1953, as enacted by Chapter 93, Laws of Utah 1955, is amended to read:

53-7-5c. Additional Distribution Units.

In addition to the distribution units allowed under section 53-7-5a, Utah Code Annotated 1953, as enacted by Chapter 27, Laws of Utah 1953, First Special Session, there shall be allowed not to exceed one additional distribution unit equal to that amount which is required for a distribution unit determined by a school district according to the provisions of section 53-7-5, subsection (1), Utah Code Annotated 1953, as amended by Chapter 27, Laws of Utah 1953, First Special Session, for each 50 distribution units otherwise computed for the purpose of financing the extra costs of conducting a study of merit appraisal for school personnel by a local district; provided, such district enters into an official agreement with the Utah school merit study committee, as provided by chapter 30, Laws of Utah 1953, First Special Session, and provided

further, that such district shall not include the additional unit, or units, provided for herein as a part of its basic state-supported school program for the purpose of maintaining a school program in excess of its basic state-supported program as provided for by section 53-7-8, Utah Code Annotated 1953, as amended by chapter 26, Laws of Utah 1953, First Special Session. Such local school district shall be allowed such additional unit or units for the period of such agreement but not beyond June 30, 1959. If a district agreement requires only a partial participation in a study of merit appraisal for school personnel, the allowance provided for herein shall be in such proportion as specified in the agreement. Such agreements shall be certified to the state board of education by the local school district and the Utah school merit study committee as a condition for participation in the computation of distribution units as provided by law.

Section 2. Appropriation for Administrative Expense.
There is appropriated from the state general fund, not otherwise appropriated, the sum of $15,000, or so much thereof as may be necessary, to the Utah school merit study committee for administrative expenses to perform the duties required by law.

Section 3. Termination Date.
This act shall terminate June 30, 1959.

Approved March 18, 1957.

CHAPTER 95

H. B. No. 176. (Passed March 14, 1957. In effect May 14, 1957.)

BUILDING RESERVE FUND — ELIGIBILITY

An Act Relating to and Providing for Standards of Eligibility to Obtain State Funds to Meet Supplemental Net Building Needs; Directing the State Board of Education to Prescribe School Plant Standards; Providing for Approval of Plans and Supervision of Construction; Authorizing School Districts to Make School Building Levies; Appropriating the Sum of One and One-Half Million Dollars for Supplemental State Aid in Addition to Appropriations Previously Made; Establishing Certain Priorities and Providing for the Distribution of State Aid and Conditions Precedent Thereto.

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

Section 1. Statement of Policy — Constitutionality.
Basic responsibility for operation of the public school system of this state has been delegated by the legislature primarily to the various local school districts subject to general control and supervision by the state board of education. However, school plant needs in some districts, due either to obsolescence of the existing plants or to increased enrollments, or both, have reached a point where the cost of meeting the needs exceeds the ability of such districts alone to meet the needs. It is therefore the purpose of this act to provide supplemental financial assistance to such districts to meet their needs for sites, buildings, and furniture

and equipment as determined by the procedures hereinafter specified and this act shall be construed liberally to this end. If any section or clause of this act shall be held unconstitutional, the remaining provisions shall be given full force and effect as completely as if the part held unconstitutional had not been included herein, and this act shall supersede and amend all provisions of law in conflict herewith.

Section 2. Standards of Eligibility to Obtain State Funds for Building Needs.

A school district shall be eligible to receive supplemental state aid for school building purposes when it has demonstrated a need for such aid beyond its ability to provide financially for the same by its own efforts, in accordance with the provisions of this act. Such need must be for funds in excess of the funds which the district itself can raise by taking the following action:

(1) Exhausting the legal, permissible bonding power of the district. However, if the school district is bonded within 95 percent of its bonding capacity at the time it makes application for supplemental state building funds, upon approval of the state board of education, the district may provide the additional funds to equal full bonding capacity from other resources not included in the levies required by this act.

(2) Levying for debt service and capital outlay, including acquisition of sites, construction of buildings, furnishing and equipment for the same or remodeling or modernizing existing school plants, a tax levy of ten mills for a period of five years, which levy shall include any levies necessary to amortize, and pay interest on, outstanding bonds. This levy shall commence with the first year in which the levy can be made following the application by the district for supplemental state aid under the terms of this act.

(3) Making available for building projects under the terms of this act any reserve building funds existing in the school district as of June 1, 1957.

(4) Certifying to the state board of education that the school plants of the district are covered by adequate fire insurance.

Section 3. Application for Funds — How Made.

Application for supplemental state aid by a school district desiring such aid must be made by the district to the state board of education on or before June 1, 1957. To be eligible for such aid a district must have certified to the state board of education on or before August 1, 1957, that it has met the requirements of Section 2 of this act, except that upon application by a district board of education the state board of education may grant an extension of not to exceed sixty days for the district to meet the requirements of Section 2 (1) above.

Section 4. Report Data for Determining Building Needs.

Data contained in the reports of the temporary school building survey commission, as authorized and required under the terms of Chapter 86, Laws of Utah 1951, and Chapter 86, Laws of Utah 1953, shall be the basis for determining building needs in authorizing allocations for building projects as hereinafter provided, provided that exceptions to the reports and recommendations of the temporary school building survey commission may be made by the state board of education as follows:

(1) Any building project recommended by the temporary school building survey commission in a school district's building needs may be omitted from the list upon application by the district board of education and approval of the state board of education; or any such project may be omitted directly by the state board of education upon a two-third's vote of such board.

(2) Whenever a school district believes there is good reason to modify the nature of a proposed building project, as recommended in the report of the temporary school building survey commission or to change the order of such project in the recommended list of school building needs, upon application signed by all members of the district board of education to the state board of education, the state board of education may, by approval of all members, grant such application, if such modification of the building project is desirable because of changed conditions in the district related to the eduactional program, or to school population changes, since the survey of the district's school building needs was made by the temporary school building survey commission.

(3) Whenever a school district qualifies for receiving state aid under the provisions of this act, and for which district no recommended order of priority of needed school building projects was listed by the temporary school building survey commission in its report on that district, such priority of needed school building projects shall be established by the state board upon application by the district board of education.

(4) Whenever a school district qualified for receiving state aid under the provisions of this act, in which district there has been an increase in school population since January 1, 1951, the state board of education shall grant additional building needs to that district for additional teaching units equal to the total net increase in school average daily enrollment since that time and projected to June 30, 1960, divided by 30, and from this quotient there shall be subtracted the number of teaching units for which school buildings have been constructed, or are under construction, in that district during the time of such school population increase, not counting buildings which have been erected as replacements of previously existing facilities. Upon application by the school district and approval by the state board of education any such increase in school building needs shall be allotted to specific school building projects and the order of such projects in the priority list of the total needed school building projects in the district shall also be established in this manner.

(5) Whenever a school district which has qualified to receive state aid under the provisions of this act has also qualified to receive a direct grant of federal funds and does receive such funds to apply toward the cost of constructing school facilities which have been identified within the school building needs of the district under the provisions of this act, then the priorities of the needs within the district shall be modified accordingly and the dividend used for calculating the index of need for the district as provided in Section 8 of this act shall be reduced by the number of teachers for whom teaching stations are constructed by the use of federal funds.

Section 5. Standards for School Building Construction Established by State Board of Education.

Standards for school building construction, including space per pupil

or teaching unit, types of rooms, cost per square foot or per teaching unit, size of site, and allotments for furniture and equipment, shall be established by the state board of education. In the standards of construction of special use and general use facilities, such as auditoriums, the state board of education may permit standards based upon reasonable estimates of what the school population may be after five years following the time an allocation is made.

Section 6. Plans to be Approved by State Board of Education.

Plans for construction, including proposed building sites to be acquired as a part of the needs for which state aid is to be applied, must be approved by the state board of education and by the state building board, and shall not thereafter be changed by the district without the approval of each of these two state boards. In approval of plans and specifications of each building or remodeling project authorized under the provisions of this act, the state board of education shall assume major responsibility for approving educational adequacy, including kinds, amounts, and organization of space; teaching equipment and furniture; and other factors relating to the effective operation of the school program. The state building board shall assume major responsibility for approving structural plans, design, building materials, and other factors relating primarily to the construction of the building.

District boards of education shall be responsible for the employment of architects and letting of contracts on each building project according to procedures established by the state board of education and the state building board. The state board of education shall be responsible for initiating meetings for the purpose of cooperatively establishing procedures by which the joint responsibilities of the state board of education and the state building board shall be carried forward.

Section 7. Responsibility for Inspection and Supervision During Construction — State Building Board.

Primary responsibility for inspection and supervision of buildings during course of construction shall rest with the state building board, except that the state board of education shall make periodic inspections to see that educational standards are being met during the course of construction. Final payments of state funds to the school district on each project shall not be made until both the state building board and the state board of education have given approvals of completion.

Section 8. State Funds Distributed by State Disbursing Officer.

State funds available under the terms of this act shall be distributed by the state disbursing officer, according to allocations authorized and certified to by the state board of education and the state building board upon claims prepared by the state board of education. Such funds shall be distributed to school districts which have qualified for supplemental state aid for school building projects which have been determined according to the following procedures and formula:

The building need index for each district qualifying for supplemental building aid shall be determined by dividing the number of full-time teachers, or equivalent, for kindergarten, as required, for elementary and high school purposes, included in the list of building projects included in the supplemental needs of the district by the total number of

full-time teachers, or equivalent, for kindergarten, elementary, and high school teaching in the district as determined to be necessary for the school year. In determining the number of teaching units to be included in the dividend of the formula, the number of teachers for any project for remodeling of a building shall be reduced from the number of teachers in the project by the same percent that the cost of remodeling the building or buildings is estimated to be of the cost of their replacement with new facilities.

As soon as the building need index for each school district in need of supplemental building aid has been determined by the state board of education, the state board shall make a list of the need index of all districts qualifying for supplemental building needs, placing the highest index number first and other numbers thereafter in descending order. After thus determining the list of priority needs of the district, the board shall place each district included in the upper third of the list into a special group known as Class I districts, provided, that there shall be not less than two school districts in such Class I groups. The board shall then approve the allocation of sufficient funds to each such Class I district, which, together with such local school district funds as may be available, under Section 2 of this act, will be necessary to meet the estimated cost of the first priority building project. After these approvals have been made, the building need index for each school district shall be again calculated, omitting the teaching units in the dividend of the formula for the building projects for which approvals have been made and adding to the divisor the number of teaching units included in the project or projects for which approval has been made which were not previously included in the divisor. A new list of Class I districts shall then be made and approval of funds shall again be made in the manner hereinbefore provided. This procedure of priority classification, approval of funds, reclassification and reapproval, shall continue until there are insufficient funds for all highest priority projects in the classification. The board shall then approve funds, to each district in order of priority of rating within the class and within the limitation set forth in Section 10 of this act until the available funds are exhausted, provided, that no approval shall be given unless there are sufficient funds available from any or all sources to complete the project according to the standards authorized herein, and provided further, that the state board of education, at its discretion, may reserve the allocation of not more than one-third of the funds appropriated by the terms of this act, for allocation after June 1, 1958.

Section 9. Distribution of Funds to be Recommended by State Board of Education.

Distribution of supplemental state aid funds shall be made to school districts for each building or remodeling project for which funds have been allocated under the provisions of this act according to a schedule of payments to be recommended by the state board of education and approved by the state building board. The school district receiving such aid shall continue to comply with the conditions prescribed by this act, including the provisions of Section 2 (2) herein.

In calculating the amount of district school funds available from Section 2 (2) for building projects under the terms of this act, the data

from current and preceding years levies shall be calculated at the time of completion of each building project in that district in the order of completion of such projects. Prior to the completion in any district of the last project authorized under the terms of this act, data for future years to cover the five-year period required under the terms of Section 2 (2) shall be calculated on the basis of the latest year for which assessed valuations are available and on the basis of outstanding bond and interest payments for which the district is obligated during the balance of the five-year levy term required in this act.

Section 10. Appropriation to State Board of Education.

There is hereby appropriated to the state board of education, out of any money in the general fund not otherwise appropriated, the sum of one and one-half million dollars, or so much thereof as may be necessary, for distribution to the school districts which qualify for supplemental building needs under the terms of this act and to which allocations have been made by the state board of education, as authorized herein. Fifteen thousand dollars, or as much thereof as may be necessary, of such appropriation shall be reserved for the necessary expenses of the state building board which may be incurred in carrying out the provisions of this act, and two hundred twenty thousand dollars shall be reserved for allocation by the state board of education to school districts which the board may determine require a portion of such funds in order to complete a school project, for which available funds are otherwise insufficient; provided further, that of this latter sum, fifteen thousand dollars may be utilized by the state board of education for carrying out the duties imposed by this act. The funds herein appropriated and allocated shall not lapse or be closed out by the state fiscal officers or local boards of education. Any unallocated or unobligated funds available under the terms of Chapter 95, Laws of Utah 1955, existing on June 30, 1957, under the terms of that act or which may accrue because of construction costs on any project being less than the funds which were allocated for the project under the terms of that act, are hereby appropriated to the state board of education for carrying out the purposes of this act. These latter funds are appropriated in addition to other funds appropriated in this section or made available under the terms of Section 12.

Section 11. Use of Authorized or Allocated Funds.

Any funds heretofore authorized or allocated under the terms of Chapter 95, Laws of Utah 1955, to any school district for any project for which construction contracts have been awarded upon the effective date of this act shall be made available for the use of such district in school building construction or remodeling on such project in a manner which may be requested by the district board of education and approved by the state board of education. Any funds in such allocation which may remain unexpended upon the completion of the project shall be added to the funds appropriated under the terms of Section 10 of this act.

Section 12. Use of Other Available Funds.

The state board of education may add to the funds made available for supplementary school building needs under the terms of this act any federal school building funds which may become available to the State of Utah under terms of an act or acts of Congress, provided that such

federal funds may be allocated and expended in accordance with the authority, powers, and procedures given or authorized to the state board of education and the state building board under the terms of this act.

Section 13. Date of Availability of Funds.

Funds appropriated by this act shall be made available July 1, 1957.

Approved March 15, 1957.

CHAPTER 96

H. B. No. 160. (Passed March 12, 1957. In effect May 14, 1957.)

SCHOOL PROGRAMS—TAX LEVY FOR REMODELING BUILDINGS

An Act Relating to Schools Assisting the School Districts of the State of Utah to Meet Further Emergency Needs for Remodeling and Constructing School Buildings by Extending, for an Additional Ten Years After June 30, 1957, the Authority of Local School Districts to Levy a Tax Not to Exceed Twelve Mills for Debt Service and Capital Outlay.

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

Section 1. School Districts Tax Levy—Maximum.

The school districts of the State of Utah are hereby authorized to make a tax levy at a rate not to exceed twelve mills as determined by resolution of the board of education of the district for the purpose of providing funds for debt service and capital outlay, including the acquisition of sites, construction of buildings, purchase of furnishings and equipment for same, or for remodeling or modifying existing school plants.

Such levies shall be in addition to authority granted in Section 53-7-8, Utah Code Annotated 1953.

Section 2. Period of Authority to Levy.

The authority to make the above levy shall continue for a period of ten years from and after June 30, 1957.

Section 3. Date of Termination.

This act shall terminate June 30, 1967.

Approved March 16, 1957.

CHAPTER 97

H. B. No. 50. (Passed February 28, 1957. In effect May 14, 1957.)

COURSE OF STUDY — AUTOMOBILE DRIVER EDUCATION

An Act Amending Section 53-14-12, Utah Code Annotated 1953, as Amended by Chapter 96, Laws of Utah 1955, Relating to Driver Education Classes and Enacting New Section to be Known as Sections 53-14-13, 53-14-14, 53-14-15, 53-14-16, 53-14-17, 53-14-18 and 53-14-19, Utah Code Annotated 1953, Relating to Automobile Driver Education in Public Schools, and Appropriating All Monies in Automobile Driver Education Tax, Providing for the Reimbursement of the School Dis-

tricts and the State Board of Education for Expenses Incurred in Connection Therewith, Reports of the Results Thereof, the Creation of the Driver Education Fund and Appropriations Thereto, the Manner in Which Expenditures Shall be Made Therefrom, the Transfer of Excess Funds Therefrom to the General Fund and Creating an Advisory Board.

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

Section 1. Section Amended.

Section 53-14-12, Utah Code Annotated 1953, as amended by Chapter 96, Laws of Utah 1955, is amended to read:

53–14–12. Automobile Driver Education Classes.

Local school districts maintaining secondary schools may in their discretion, establish and maintain automobile driver education classes for pupils enrolled in grades nine to twelve, inclusive.

"Automobile driver education" as used in this article shall include classroom instruction and behind-the-wheel driving and observation in a dual controlled automobile.

The aims and purposes of automobile driver education shall be to develop the knowledge, attitudes, habits, and skills necessary for the safe operation of motor vehicles.

The state board of education shall prescribe regulations and standards for driver eduation in all school districts.

Section 2. Sections Enacted.

Sections 53-14-13, 53-14-14, 53-14-15, 53-14-16, 53-14-17, 53-14-18 and 53-14-19, Utah Code Annotated 1953 are enacted to read:

53–14–13. Reimbursement of School Districts for Driver Education Training Expense from Driver Education Fund.

The state superintendent of public instruction shall on or before the September 1st following the school year during which it was expended or may at earlier intervals during said school year, reimburse each local school district which applies therefor and that maintains automobile driver education classes which conform to the regulations and standards prescribed by the state board of education for its actual cost of providing the behind-the-wheel and observation training incidental to said clases. The reimbursement amount shall be paid out of the "driver education fund" and shall not exceed $30.00 per student who completes such a standard driver education course during the school year. In the event that the amount of money available for said purpose in the driver education fund at the end of any school year is less than the total of said reimburseable costs, the superintendent of public instruction shall reimburse said local school districts up to the amount of money available in said fund and shall allocate it to each school in the same proportion that its reimburseable costs bear to the total reimburseable costs of all school districts eligible therefor.

53–14–14. Report by School District to State Superintendent of Public Instruction.

The board of education of each school district seeking reimbursement shall, at the end of each school year and at such other times as may be

designated by the state board of education, report to the state superintendent of public instruction the costs of providing behind-the-wheel and observation training to such students, the number of students who completed a standard driver education course, whether or not a passing grade was received and such other information as the state board of education may require for the purpose of administering this program.

53–14–15. Establishment and Maintenance of Driver Education Classes —Personnel—Reimbursement of Cost.

The superintendent of public instruction shall promote the establishment and maintenance of the automobile driver education classes in the local school districts. For that purpose, the state board of education may employ such personnel as may be necessary to give full effect to this program. The cost incurred by the state board of education for this purpose shall be reimbursed from the driver education fund.

53–14–16. Appropriation to State Board of Education from Automobile Driver Education Tax Fund.

There is appropriated to the state board of education from the automobile driver education tax fund annually all of the money in said fund in excess of the expenses of administering the collection of the automobile driver education tax for use and distribution in the administration and maintenance of the automobile driver education classes and program as above provided by local school districts and the state department of education.

53–14–17. Transfer of Funds to Driver Education Fund.

The state auditor shall, on the first day of June, 1958, and on the first day of June each year thereafter, transfer the amount herein appropriated from the automobile driver education tax fund to a fund to be known as the "driver education fund" for expenditure under the direction of the state board of education, as above provided.

53–14–18. Excess Funds—Reversion.

That amount of money accumulated in the driver education fund, which is in excess of thirty percent of the amount required to pay the reimbursements and expenses for the preceding school years, shall be deemed to be "excess funds." On December 10, of each year, the excess funds in the driver education fund shall revert to and be transferred by the state auditor to the general fund.

53–14–19. Advisory Board Created—Duties—Expenses.

The governor shall appoint an advisory board composed of seven members from among groups or individuals who are concerned with problems of traffic safety and driver education. These board members shall be appointed for two year terms. The terms of office shall commence July 1 and end June 30. The first term shall commence July 1, 1957.

The advisory board shall advise the state board of education in the formulation of policies related to the administration of the driver education program.

The members of the advisory board shall receive reimbursement for their necessary expenses as determined and defined by the state board of education. Reimbursement shall be paid from the driver education fund.

Approved March 6, 1957.

CHAPTER 98

S. B. No. 34. (Passed February 14, 1957. In effect May 14, 1957.)

VOCATIONAL REHABILITATION—HANDICAPPED INDIVIDUALS

An Act to Provide for Vocational Rehabilitation of Handicapped Individuals; Declaring the Purpose; Defining Terms; Creating in the State Board of Education a Division of Vocational Rehabilitation; to Provide for a Director of the Division; to Provide for the Administration; Cooperation with the Federal Government; Receipt and Disbursement of Funds; Receipt of Gifts; Fixing Eligibility for Vocational Rehabilitation Services; Maintenance Not Assignable; Hearing; Misuse of Lists and Records; Limitation of Political Activity; and Repealing Sections 53-17-1 as Amended by Chapter 97, Laws of Utah 1955, and Sections 53-17-2, 53-17-3, 53-17-4, 53-17-5, 53-17-6, Utah Code Annotated 1953, Relating to Vocational Rehabilitation.

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

Section 1. Title of Act.

This act shall be known and may be cited as the "Vocational Rehabilitation Act."

Section 2. Declaration of Policy.

The Utah Legislature finds and declares that:

1. The State of Utah renews its acceptance of the provisions and benefits of the Act of Congress entitled "An Act to provide for the promotion of vocational rehabilitation of persons disabled in industry or otherwise and their return to civil employment," approved June 2, 1920, as amended by P. L. 113, 78th Congress and as further amended by P.L. 565, 83rd Congress.

The state board for vocational education, which administers this act through the division of vocational rehabilitation, shall cooperate, pursuant to agreements, with the Federal Government in carrying out the purposes of any Federal statutes pertaining to the purposes of this act and is authorized to adopt such methods of administration as are necessary for the proper and efficient operation of such agreements and to comply with such conditions as may be necessary to secure the full benefits of such Federal statutes.

2. It is the public policy of this state to encourage and assist physically and mentally handicapped persons to achieve the maximum degree of self-care and to prepare for and engage in remunerative employment to the maximum extent of their capabilities, thereby increasing not only their social and economic well-being, but also enhancing the effective human resources and productive capacity of the state.

3. The objectives of this policy can be achieved most effectively by the establishment of such services and programs upon a firm and adequate legal basis in the laws of this state.

4. This act shall be construed as liberally as possible in order to carry out this purpose.

Section 3. Definitions.

As used in this act:

1. "State Board" means the state board of education in its capacity

as the state board for vocational education;

2. "Division" means the division of vocational rehabilitation;

3. "Director" means the director of the division of vocational rehabilitation;

4. "Handicapped individual" means any individual who is under a physical or mental disability which constitutes a substantial handicap to employment, but which is of such a nature that vocational rehabilitation services may reasonably be expected to render him fit to engage in a remunerative occupation;

5. "Individual who is under a physical or mental disability" means an individual who has a physical or mental condition which materially limits, contributes to limiting or, if not corrected, will probably result in limiting his activities or functioning;

6. "Vocational rehabilitation services" means any goods and services necessary to render a handicapped individual fit to engage in a remunerative occupation, including:

(1) diagnostic and related services (including transportation) required for the determination of eligibility for service and of the nature and scope of the services to be provided;

(2) counseling and guidance;

(3) placement;

(4) acquisition of vending stands or other equipment, and initial stocks and supplies for small business enterprises conducted by severely handicapped individuals under the supervision of the director;

(5) physical restoration services;

(6) training;

(7) books and training materials;

(8) maintenance;

(9) tools, equipment, initial stocks and supplies, including equipment and initial stocks and supplies for vending stands;

(10) transportation not included under item (1) of this subsection;

(11) occupational licenses; and

(12) other goods and services necessary to render a handicapped individual fit to engage in a remunerative occupation.

7. "Workshop" means a place where any manufacture or handiwork is carried on, and which is operated for the primary purpose of providing remunerative employment to severely handicapped individuals (1) as an interim step in the rehabilitation process for those who cannot be readily absorbed in the competitive labor market; or (2) during such time as employment opportunities for them in the competitive labor market do not exist.

Section 4. Division of Vocational Rehabilitation Established.

There is established in the state board, a division of vocational rehabilitation.

Section 5. Duties—Authority.

The division shall be administered, under the general supervision and direction of the state board, acting through its executive officer, by a director appointed by such state board in accordance with established personnel standards and on the basis of his education, training, experience, and demonstrated ability. In carrying out his duties under this act, the director

1. shall, with the approval of the state board, make regulations governing personnel standards, the protection of records and confidential information, the manner and form of filing applications, eligibility, and investigation and determination thereof, for vocational rehabilitation services, procedures for fair hearings, the establishment and operation of rehabilitation facilities and workshops, and such other regulations as he finds necessary to carry out the purposes of this act;

2. shall, with the approval of the state board, establish appropriate subordinate administrative units within the division;

3. shall, with the approval of the state board, appoint such personnel as he deems necessary for the efficient performance of the functions of the division;

4. shall prepare and submit to the state board biennial reports of activities and expenditures and, prior to each regular session of the legislature, estimates of sums required for carrying out this act and estimates of the amounts to be made available for this purpose from all sources;

5. shall make certification for disbursement, in accordance with regulations, of funds available for carrying out the purposes of this act;

6. shall, with the approval of the state board, take such other action as he deems necessary or appropriate to carry out the purposes of this act;

7. may, with the approval of the state board, delegate to any officer or employee of the division such of his powers and duties, except the making of regulations and the appointment of personnel, as he finds necessary to carry out the purposes of this act.

Section 6. Duties—Authority.

Except as otherwise provided by law, the state board, through the division shall provide the services authorized by this act to handicapped individuals determined by the director to be eligible therefor and, in carrying out the purposes of this act, the division is authorized, among other things;

1. to cooperate with other departments, agencies and institutions, both public and private, in providing the services authorized by this act to handicapped individuals, in studying the problems involved therein, and in establishing, developing and providing, in conformity with the purposes of this act, such programs, facilities and services as may be necessary or desirable;

2. may establish and operate rehabilitation facilities and workshops and make grants to public and other nonprofit organizations for such purposes;

3. may supervise the operation of vending stands and other small businesses established pursuant to this act to be conducted by severely handicapped individuals;

4. may make studies, investigations, demonstrations and reports, and provide training and instruction (including the establishment and maintenance of such research fellowships and traineeships with such stipends and allowances as may be deemed necessary) in matters relating to vocational rehabilitation.

Section 7. Additional Duties—Authority.

1. The state board, through the division, shall cooperate with the Federal Government in carrying out the purposes of any Federal statutes pertaining to the purposes of this act including the licensing of blind persons to operate vending stands on Federal property and is authorized to adopt such methods of administration as are found by the Federal Government to be necessary for the proper and efficient operation of such agreements and to comply with such conditions as may be necessary to secure the full benefits of such Federal statutes;

2. Upon designation by the governor, the state board may perform functions and services for the Federal Government relating to individuals under a physical or mental disability, in addition to those provided in subsection 1, hereof.

Section 8. Treasurer is Custodian of Funds.

The state treasurer is hereby designated as the custodian of all funds received from the Federal Government for the purpose of carrying out any Federal statutes pertaining to the vocational rehabilitation or any agreements authorized by this act. The state treasurer shall make disbursements from such funds and from all state funds available for such purposes upon certification in the manner provided in Section 5 (5).

Section 9. Acceptance of Gifts—Unconditional—Conditional.

The director is hereby authorized and empowered, with the approval of the state board, to accept and use gifts made unconditionally by will or otherwise for carrying out the purposes of this act. Gifts made under such conditions as in the judgment of the state board are proper and consistent with the provisions of this act may be co accepted and shall be held, invested, reinvested, expended and used in accordance with the conditions of the gift.

Section 10. Services to be Provided to Any Handicapped Resident—Exceptions.

1. Vocational rehabilitation services shall be provided directly or through public or private instrumentalities to any handicapped individual who is a resident of the state at the time of filing his application therefor and whose vocational rehabilitation, the director determines after full investigation, can be satisfactorily achieved. However, those vocational rehabilitation services enumerated in Section 3 (6), items (5) through (12) inclusive, shall be provided at public cost only to those handicapped individuals who are found by the director to require financial assistance with respect thereto;

2. In case vocational rehabilitation services cannot be provided all eligible handicapped individuals who apply for such services, the director shall provide by regulation for determining the order to be followed in selecting those to whom such services will be provided.

Section 11. Rights to Maintenance Under Act Not Transferrable or Assignable.

The right of any individual to maintenance under this act shall not be transferable or assignable at law or in equity.

Section 12. Right to Hearing by State Board.

Any individual applying for or receiving vocational rehibilitation or

any other services authorized by this act who is aggrieved by any action or inaction of the division shall be entitled, in accordance with regulations, to a fair hearing by the state board.

Section 13. Lists of Vocational Rehabilitation Recipients Not Available for Use Except in Connection with Administration of Program—Violation Misdemeanor.

It shall be unlawful, except for purposes directly connected with the administration of the program authorized by this act, and in accordance with regulations, for any person or persons to solicit, disclose, receive, or make use of, or authorize, knowingly permit, participate in, or acquiesce in the use of any list or names of, or any information concerning, persons applying for or receiving vocational rehabilitation, or any other services authorized by this act, directly or indirectly derived from the records, papers, files, or communications of the state or subdivisions or agencies thereof, or acquired in the course of the performance of official duties. Any violation of this provision shall be deemed to be a misdemeanor.

Section 14. Program Not to be Used for Political Purposes.

No officer or employee engaged in the administration of the programs authorized by this act shall use his official authority or influence or permit the use of the vocational rehabilitation programs for the purpose of interfering with an election or affecting the results thereof or for any partisan political purpose. No such officer or employee shall take any active part in the management of political campaigns or participate in any political activity, except that he shall retain the right to vote as he may please and to express his opinions as a citizen on all subjects. No such officer or employee shall solicit or receive, nor shall any such officer or employee be obligated to contribute or render, any service, assistance, subscription, assessment, or contributions for any political purpose. Any officer or employee violating this provision shall be subject to discharge or suspension.

Section 15. Constitutionality.

If any provision of this act, or the application thereof to any person or circumstance, is held invalid, the remainder of the act, and the application of such provision to other persons or circumtances shall not be affected thereby.

Section 16. Right to Amend or Repeal—No Vested Rights.

The legislature reserves the right to amend or repeal all or any part of this act at any time; and there shall be no vested private right of any kind against such amendment or repeal. All rights, privileges, or immunities conferred by this act or by acts done pursuant thereto shall exist subject to the power of the legislature to amend or repeal this act at any time.

Section 17. Sections Repealed.

Sections 53-17-1, Utah Code Annotated 1953, as amended by Chapter 97, Laws of Utah, 1955 and 53-17-2, 53-17-3, 53-17-4, 53-17-5, and 53-17-6, Utah Code Annotated 1953, are repealed. This act shall take precedence over all other laws or parts of laws inconsistent with the provisions of this act.

Approved February 26, 1957.

CHAPTER 99

H. B. No. 102. (Passed March 13, 1957. In effect May 14, 1957.)

COMPULSORY ATTENDANCE

An Act Relating to Education Amending Section 53-24-1, Utah Code Annotated 1953, as Amended by Chapter 19, Laws of Utah 1953, First Special Session, Providing That a District Board of Education May, Under Certain Conditions, Excuse from the Requirements of Compulsory School Attendance a Minor who Has Reached the Age of Sixteen Years.

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

Section 1. Section Amended.

Section 53-24-1, Utah Code Annotated 1953, as amended by Chapter 19, Laws of Utah 1953, First Special Session is amended to read:

53-24-1. Minimum Time of Attendance—Exceptions — Excuses and Exemptions—Part Time Schools.

Every parent, guardian or other person having control of any minor between six and and eighteen years of age shall be required to send such minor to a public or regularly established private school during the regularly established school year of the district in which he resides; *provided:*

a. That any minor over the age of sixteen years, who has completed the eighth grade or whose services are required for the support of a mother or invalid father may be legally excused to enter employment, but if such minor is so excused, the parent, guardian or other person shall be required to send such minor to a part-time school or class at least one hunderd forty-four hours per year.

b. That in each year the parent, guardian or other person having control of any such minor may be excused by the Board of Education of the district from sending such minor to a public, regularly established private or part-time school or class for any of the following reasons:

(1) That such minor has already completed the work of a senior high school.

(2) That such minor is taught at home in the branches prescribed by law for the same length of time as children are required by law to be taught in the district schools; *provided,* that a minor legally excused to enter employment may be excused from attending a part-time school or class for the reason that such minor is taught at home the required number of hours.

(3) That such minor is in such physical or mental condition (which must be certified by a competent physician if required by the board) as to render such attendance inexpedient and impracticable.

(4) That no such school is established, or class is taught for the requisite length of time, within two and one-half miles of the residence or the place of employment of the minor, unless free transportation is provided.

(5) That proper influences and adequate opportunities for education are provided for in connection with the employment of such minor.

c. That any minor who has reached the age of sixteen years and

whose school experience has, in the judgment of school officials, demonstrated that such minor is unable to profit from school attendance, either because of the student's inability or because of the student's continued negative attitude toward school regulations and school discipline, may be excused from school attendance upon recommendation of the school superintendent, and approval of the district board of education.

d. The evidence of the existence of any such reasons for non-attendance must be in each case sufficient to satisfy the Board of Education of the district in which the child resides, which, if so satisfied, shall issue a certificate stating that the holder is exempt from attendance during the time therein specified.

Approved March 20, 1957.

CHAPTER 100

S. B. No. 102. (Passed March 11, 1957. In effect July 1, 1957.)

TEACHERS' RETIREMENT

An Act Amending Sections 53-29-11, 53-29-17, 53-29-20, 59-29-23, 53-29-27, 53-29-29, and 53-29-31, as Enacted by Section 4, Chapter 20, Laws of Utah 1953, First Special Session, Relating to the Utah School Employees' Retirement Act, for the Purpose of Modifying the Membership Provisions of Said Act; Clarifying the Responsibility of Employers in the Deduction and Payment of Members' Contributions; Assessing a Withdrawal Fee; Providing for the Reduction of Disability and Service Retirement Basic Allowance by 70 Per Cent of Retirant's Primary Social Security Benefit as Computed on the 1953 Social Security Benefit Formula, Together with a Minimum Allowance; Modifying the Option 1 Retirement Allowance Computation; Establishing Uniform Accrual and Termination Dates for Retirement Allowances; and the Effective Date.

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

Section 1. Sections Amended.

Sections 53-29-11, 53-29-17, 53-29-20, 53-29-23, 53-29-27, 53-29-29 and 53-29-31, as enacted by section 4, Chapter 20, Laws of Utah 1953, First Special Session, are amended to read as follows:

53-29-11. Teachers Excluded from Membership in Retirement System.

The following employees shall be excluded from membership in the retirement system:

(a) Every employee whose employment status is temporary in nature. A person whose term of employment contemplates a duration of less than three months is a temporary employee. If the term of employment exceeds three months then for such employee a regular full-time status shall be assumed at this time, *provided, however,* that in each case where the employee is a student or spouse of a student said employee may at his option be considered to be a temporary employee. Said option once exercised may be rescinded and benefits to which said employee would be entitled, had he not elected to be classed as a temporary em-

ployee, may be obtained by such employee by the payment of all contributions which he would otherwise have paid had he not exercised said option. The employee and the employer shall thereafter make contributions as provided by this act.

(b) Every employee who is the holder of a retirement annuity contract with the Teachers' Insurance and Annuity Association of America or with any other public or private system, organization or company shall be excluded from membership during any period in which he has received or elects to receive contributions toward the premiums required thereon from his employing unit on compensation as defined in section 53-29-2 (18) of this chapter. Every such employee, upon the cessation of such employer contributions, shall forthwith become a member. Contributions by his employing unit based on annual salary in excess of compensation as defined in section 53-29-2 (18) of this chapter shall not be a cause for exclusion from membership.

(c) Every employee serving as an exchange from outside the state.

53-29-17. Contributions by Members—Payroll Deductions—Contributions by Employing Units—Matching Funds.

Each employing unit shall deduct from the compensation of each of its employees who is a member of the system, the amount of the contributions required of said member by the provisions of this chapter. Said deduction shall be made as and when compensation is paid and the amount so deducted shall be paid by the employing unit into the retirement fund in such manner and at such time as the retirement board shall by regulation prescribe. The employing unit shall pay into the retirement fund an amount equal to any member's required contribution, in addition to the matching employer's contributions, which is not deducted as required by this chapter.

53-29-20. Payment Where Membership Discontinued Except by Death or Retirement—Election by Member—Re-deposit.

(a) Should the service of a member in a status requisite to membership herein be discontinued, except by death or retirement, he shall be paid, not more than two years after the date of discontinuance, such part of his accumulated contributions as he shall demand, less a withdrawal fee the amount of which the retirement board shall establish by regulation for the purpose of reimbursing its administrative fund for the cost entailed by said withdrawal. If in the opinion of the retirement board said member is permanently separated from service and has less than fifteen years of service, the board may forthwith pay all of his accumulated contributions, less the withdrawal fee. The board may in its discretion withhold, for not more than two years after a member has last rendered service, all or part of his accumulated contributions if after a previous discontinuance of service he withdrew all or part of his contributions and failed to make a re-deposit as herein provided.

(b) For the purpose of this section, an election on the part of a member to receive, or the receipt of, contributions from his employing unit for the payment of premiums upon an annuity contract with the Teachers' Insurance and Annuity Association of America or with any other private organization or company, shall be deemed to be a termination of services, but only if such contributions by the employing unit are

based on compensation as defined in section 53-29-2 (18) of this chapter. Receipt of such contributions from the employing unit based on annual salary in excess of compensation as defined in section 53-29-2 (18) of this chapter shall not be deemed to be a termination of services.

(c) Any member may re-deposit in the retirement fund, in one sum or in not to exceed twelve monthly or twenty-four semi-monthly payments, an amount equal to that which he withdrew therefrom at the last termination of services. By said re-deposit he shall be reinstated to the service credits theretofore established at the date of said termination.

If a member within 60 days after re-entering the retirement system elects not to make such re-deposit, he shall re-enter as a new member without previous service credits.

53-29-23. Disability Allowance—Basis—Allowance Upon Reaching Retirement Age.

(a) Upon retirement for disability as above provided, a member who has qualified for service retirement at age sixty or older shall receive a service retirement allowance as provided in the subsequent sections hereof and shall be considered to be a service retirant.

(b) Except as provided in the preceding paragraph and as modified in the following paragraph, a member on retirement for disability shall receive a retirement allowance equal to 1/80 of his final annual compensation multiplied by his years of service, but not less than $50.00 per month, or the amount of annuity which would be the actuarial equivalent of his accumulated contributions at the time of retirement and a pension purchased by contributions of the state equal to said member's annuity, whichever is greater.

(c) When a member on retirement for disability shall have attained retirement age under provisions of title II of the social security act and is eligible to receive a primary insurance benefit thereunder, his disability retirement allowance shall be an amount equal to his basic disability retirement allowance, less seventy per cent of said primary insurance benefit as computed on the basis of the 1953 social security benefit formula. Said reduced allowance shall not be less than the amount of an annuity which would be the actuarial equivalent of his accumulated contributions at the time of retirement and a pension purchased by contributions of the state equal to said annuity.

53-29-27. Computation of Retirement Allowance — Method.

A retired person shall be entitled to receive a retirement allowance computed as follows:

(a) Until said retired person shall have attained age 65 or more and would be eligible to receive a primary insurance benefit under Title II of the social security act, or begins drawing a primary insurance benefit before age 65 under the provisions of Title II of the social security act, his retirement allowance shall be equal to his basic retirement allowance.

(b) If and when such retired person shall have attained age 65 or more and would be eligible to receive a primary insurance benefit under title II of the social security act, or begins drawing a primary insurance benefit before age sixty five, pursuant to the provisions of Title II of the Social Security Act, his retirement allowance shall be an amount

equal to his basic retirement allowance less seventy per cent of said primary insurance amount as computed on the basis of the 1953 social security benefit formula.

In no event shall such retired person receive a retirement allowance which shall be less than the amount of an annuity which would be the actuarial equivalent of his accumulated contributions at the time of retirement, plus a pension purchased by the contributions of the state equal to said annuity.

(c) A retirant may, by exercise of the options granted by section 53-29-29 hereof, establish an optional retirement which shall during his lifetime constitute the basis for determining his retirement allowance as fully as though it were his initial basic allowance.

53-29-29. Reduction in Retirement Allowance — Options.

A member or retired person may elect to have his retirement allowance reduced and in lieu thereof to accept an actuarial equivalent lesser retirement allowance and an accordingly lesser retirement allowance payable throughout his life with provisions that:

Option 1. If he dies before he receives in lesser annuity payments the amount of his accumulated contributions as it was at his retirement, the balance of such accumulated contributions shall be paid to his estate or to such person as he shall nominate by written designation duly executed and filed with the retirement board at the time of his said election.

Option 2. Upon his death, an allowance equal to his lesser retirement allowance be paid to and throughout the lifetime of such beneficiary as he shall nominate by written designation duly executed and filed with the retirement board at the time of his election.

Option 3. Upon his death, an allowance equal to one-half of his lesser retirement allowance be paid to and throughout the lifetime of such beneficiary as he shall nominate by written designation duly executed and filed in the retirement board at the time of his election.

If said retired person should die within thirty days of the date of retirement or before the payment of a retirement allowance, whichever is later, any election shall be considered void and the death shall be considered as that of a member before retirement.

Said election must be exercised by retirant prior to the payment to him of any of his retirement allowances.

53-29-31. Date of Accrual of Retirement Allowance — Installment Payments.

The retirement allowance shall begin to accrue upon the first day of the month following the last day of required service, or the first day of the month in which the application is received at the office of the retirement board, in Salt Lake City, Utah, whichever date is later.

A retirement allowance granted under the provisions hereof, shall be payable in equal monthly installments, even though defined herein as annual payments. A retirant or his beneficiary, if retirement allowance payments are being made under Options 2 or 3, who is alive on the first day of a month and dies during the month shall be deemed to have lived through the month for purposes of closing his retirement account.

Section 2. Effective Date.

This act shall take effect July 1, 1957.

Approved March 20, 1957.

CHAPTER 101

S. B. No. 199. (Passed March 14, 1957. In effect April 1, 1957.)

RETIRED EDUCATIONAL EMPLOYEES' ASSISTANCE ACT

An Act Amending Section 53-29-41 Utah Code Annotated 1953, as Enacted by Chapter 23, Laws of Utah 1953, First Special Session, as Amended by Chapter 99, Laws of Utah 1955, and Section 53-29-43, Utah Code Annotated 1953 as Enacted by Chapter 23, Laws of Utah 1953, First Special Session, Relating to the Needy Retired Educational Employees' Assistance Act, Increasing the Maximum Benefits; Making Needy Disability Retirants Eligible for Assistance; Clarifying the Provisions Setting Forth the Amount of Assistance Which May be Granted; and the Effective Date.

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

Section 1. Sections Amended.

Section 53-29-41, Utah Code Annotated 1953 as enacted by Chapter 23, Laws of Utah 1953, First Special Session, as amended by Chapter 99, Laws of Utah 1955, and Section 53-29-43, Utah Code Annotated 1953 as enacted by Chapter 23, Laws of Utah 1953, First Special Session, are amended to read:

53–29–41. Qualification for Assistance.

Assistance shall be provided under this act to any former educational employee with fifteen or more years of service in the public school system of the State of Utah, who is a legal resident of Utah, who is 65 years of age or over unless he is a disability retirant in the Utah state school employees' retirement system in which event the age and service qualifications are waived, and who does not have sufficient resources actually available for his use to maintain a minimum standard of living compatible with health and well being. Such person shall be deemed in need of assistance if his resources are insufficient to provide him with an income of at least $85.00 per month.

In arriving at the available income of the applicant, the board may consider the incomes of a husband and wife as being divided equally between the two.

Ownership of money or other tangible property or its equivalent in real or personal property, exclusive of an automobile and the building owned and occupied by the former educational employee, and the furniture and furnishings therein, shall be allowed up to but not to exceed $750.00 for the individual living alone or $1,500.00 for two or more persons living together as a family unit.

53–29–43. Amount of Assistance.

Anyone who qualifies for assistance under the provisions hereof shall receive assistance in the amount of $85.00 per month less his current available income. The term "available income" shall not include any income amounting to $15.00 or less derived by him from other real or personal property owned by him.

Section 2. Effective Date.

This act shall take effect April 1, 1957.

Approved March 22, 1957.

CHAPTER 102

S. B. No. 56. (Passed February 27, 1957. In effect July 1, 1957.)

UTAH STATE AGRICULTURAL COLLEGE — CHANGE OF NAME

An Act Amending Sections 53-32-2 and 53-32-3, Utah Code Annotated 1953, for the Purpose of Changing the Name of the Utah State Agricultural College to Utah State University of Agriculture and Applied Science.

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

Section 1. Sections Amended.

Sections 53-32-2 and 53-32-3, Utah Code Annotated 1953, are amended to read as follows:

53-32-2. Name — A Body Politic — Seal — Right to Sue — Contract — Hold Property.

The Utah State University of Agriculture and Applied Science, formerly known as the Utah State Agricultural College, and originally known as the Agricultural College of Utah as now located and established is hereby constituted a body politic and corporate with perpetual succession under the name "Utah State University of Agriculture and Applied Science," and all rights, immunities, franchises and endowments heretofore granted to or conferred upon the Agricultural College of Utah or the Utah State Agricultural College are hereby perpetuated in the Utah State University of Agriculture and Applied Science. Wherever reference is made in Title 53, Utah Code Annotated 1953, or any other law to the "Agricultural College of Utah" or the "Utah State Agricultural College," such reference shall be construed to mean the Utah State University of Agriculture and Applied Science. It may have and use a corporate seal, may sue and be sued and contract and be contracted with. It may take, hold, lease, sell and convey real and personal property as the interests of the college may require.

53-32-3. Successor to Former College.

All property held by the trustees of the Agricultural College of Utah or the Utah State Agricultural College as formerly existing and all property held by the state for its use and benefits shall be conveyed and be vested in the Utah State University of Agriculture and Applied Science, and the trustees of the Agricultural College of Utah or the Utah State Agricultural College as formerly existing and the governor are hereby authorized and empowered to execute proper conveyance of all said property to the Utah State University of Agriculture and Applied Science. All rights, claims and causes of action to or for said property or the use or income thereof, or for any conversion, disposition and withholding thereof, or for any damage or injury thereto, shall at once vest in the Utah State University of Agriculture and Applied Science, and said university in its corporate name may bring and maintain actions to recover, protect and preserve the property and rights of the university and to enforce any contract relating thereto. It shall assume all debts and be subject to all the contracts, obligations and responsibilities of the former Agricultural College of Utah or the Utah State Agricultural College and of its board of trustees in behalf of said university.

Section 2. Effective Date.
This act shall take effect July 1, 1957.
Approved March 8, 1957.

CHAPTER 103

S. B. No. 92. (Passed March 12, 1957. In effect March 18, 1957.)

FEES — DEPOSIT AND USE

An Act Amending Section 53-34-6, Utah Code Annotated 1953, Relating to Crediting on the State Treasurer's Books of the Net Profits from Proprietary Activities Paid in by the University of Utah or the Utah State Agricultural College and Authorizing Placement of the Same to the Building Account of the Institution When Pledged to Secure Payment of Building Bonds Pursuant to Sections 53-38-1 to 53-38-11 Inclusive, Utah Code Annotated 1953, and Amendments Thereof; Emergency Clause.

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

Section 1. Section Amended.
Section 53-34-6 of the Utah Code Annotated 1953, is amended to read:

53-34-6. Deposit and Use of Fees.
All money received by the University of Utah or Utah State Agricultural College from any source whatsoever, except as otherwise provided, shall be paid into the state treasury at the close of the months of June and December of each year, and shall be placed to the credit of the maintenance and building accounts of the respective institutions; *provided,* that the building construction fees shall be set aside in a special fund and used for the construction and maintenance of buildings; *provided,* that all sums received by said institutions as a result of the operation by said institutions of bookstores, printing presses, cafeterias, dining halls, dormitories, or as a result of engaging in any other proprietary activities may be retained by said institutions, and said institutions may make disbursements therefrom for the payment of current bills arising in the course of said proprietary activities, and that at the close of December of each year the net profits from such activities for the preceding fiscal year shall be paid into the state treasury and shall be placed to the credit of the maintenance accounts of the respective institutions *provided, however,* when said net profits have been pledged to secure payment of building bonds pursuant to Sections 53-38-1 to 53-38-11 inclusive, Utah Code Annotated 1953, and amendments thereof, instead of being placed to credit of the maintenance account they shall be placed to the credit of a special account to be drawn upon and paid out in accordance with the resolution pledging the same. A detailed report of fees collected, verified under oath, shall be filed with the state auditor and the state treasurer at the time fees are deposited with the state treasurer.

Section 2. Effective Date.
This act shall take effect upon approval.
Approved March 18, 1957.

CHAPTER 104

S. B. No. 91. (Passed March 11, 1957. In effect March 14, 1957.)

CAMPUS BUILDINGS — REVENUE BONDS

An Act Amending Sections 53-38-2 and 53-38-3, Utah Code Annotated 1953, as Amended by Chapter 109, Laws of Utah 1955 Relating to the Issuance of Revenue Bonds by the Board of Regents of the University of Utah, the Board of Trustees of Utah State Agricultural College, and the State Board of Education, and Providing for Payment of Such Bonds from Sources Other Than Appropriations from the Legislature; Emergency Clause.

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

Section 1. Sections Amended.

Sections 53-38-2, and 58-38-3, Utah Code Annotated 1953 as Amended by Chapter 109, Laws of Utah 1955, are amended to read:

53–38–2. Financing Projects — Issuance of Bonds — Sale Thereof.

That for the purpose of paying all or part of the cost of the construction, equipment, and furnishing of any such building or any addition to or remodeling of existing buildings, the state board of education, the board of regents and/or the board of trustees of the institution for which such building or addition to or remodeling of existing buildings (all of which buildings constructed, remodeled, added to or improved hereunder, together with any other buildings of the issuing board, revenues of which are pledged to the payment of any issue of bonds authorized hereunder, are hereinafter thereto in this chapter sometimes referred to as "the building") is to be constructed, furnished, and equipped (which state board of education, board of regents, or board of trustees are hereinafter referred to as "the board") is authorized to borrow money on the credit of the income and revenues to be derived from the operation of the building, and from the imposition of student building fees, land grant interest and net profits from proprietary activities, or from sources other than by appropriations by the legislature of the State of Utah to such issuing institutions, any or all, and in anticipation of the collection of such income and revenues to issue negotiable bonds in such amount as may in the opinion of the board be necessary for such purposes , and is authorized to provide for the payment of such bonds and the rights of the holders thereof as hereinafter provided. Such bonds may be issued in one or more series, may bear such date or dates, may mature at such time or times not exceeding fifty years from their date, may be in such denomination or denominations, may be in such form, either coupon or registered, may carry such registration and such conversion privileges, may be executed in such manner, may be payable in such medium of payment at such place or places, may be subject to such terms of redemption with or without premium, and may bear such rate or rates of interest, not exceeding six per cent per annum, as may be provided by resolution or resolutions to be adopted by the board. Such bonds may be sold in such manner and at such price or prices as may be considered by the board to be advisable, but interest cost to maturity for any bonds issued hereunder shall not exceed six per cent per annum, computed on the basis of

average maturities according to standard tables of bond values. Such bonds shall have all of the qualities and incidents of negotiable paper and shall not be subject to taxation by the State of Utah, or by any county, municipality or political subdivision therein. The board may in its discretion authorize one issue of bonds hereunder for the construction, improvement, remodeling, adding to, furnishing or equipping (any or all) of more than one building and may make the bonds payable from the combined revenues of all such buildings as well as from student building fees, land grant interest, net profits from proprietary activities, and sources other than those derived from appropriations from the legislature.

53-38-3. Payment and Discharge of Bonds — Powers of Board — Covenants by Board.

That the bonds issued hereunder shall not be an indebtedness of the State of Utah or of the institution for which they are issued or the state board of education, board of regents or board of trustees thereof, but shall be special obligations payable solely from the revenues to be derived from the operation of the building and student building fees, land grant interest and net profits from proprietary activities, and other revenues pledged thereto as provided in Section 53-38-2 and Section 53-38-12 and the board is authorized and directed to pledge all or any part of such revenues to the payment of principal of an interest on the bonds. In order to secure the prompt payment of such principal and interest and the proper application of the revenues pledged thereto, the board is authorized by appropriate provisions in the resolutions authorizing the bonds;

(1) To covenant as to the use and disposition of the proceeds of the sale of such bonds;

(2) To covenant as to the operation of the building and the collection and disposition of the revenues derived from such operation;

(3) To collect student building fees from all students and to pledge said fees to the payment of building bonds;

(4) To covenant as to the rights, liabilities, powers, and duties arising from the breach of any covenant or agreement into which it may enter in authorizing and issuing the bonds;

(5) To covenant and agree to carry such insurance on the building, and the use and occupancy thereof as may be considered desirable and, in its discretion, to provide that the cost of such insurance shall be considered a part of the expense of operating the building;

(6) To vest in a trustee or trustees the right to receive all or any part of the income and revenues pledged and assign to or for the benefit of the holder or holders of the bonds issued hereunder and to hold, apply, and dispose of the same, and the right to enforce any covenant made to secure the bonds and to execute and deliver a trust agreement or agreements which may set forth the powers and duties and the remedies available to such trustee or trustees and may limit the liabilities thereof and prescribe the terms and conditions upon which such trustee or trustees or the holders of the bonds in any specified amount or percentage may exercise such rights and enforce any or all such covenants and resort to such remedies as may be appropriate;

(7) To fix rents, charges, and fees, including student building fees,

to be imposed in connection with and for the use of the building and the facilities supplied thereby, which rents, charges, and fees shall be considered to be income and revenues derived from the operation of the building, and are expressly required to be fully sufficient either by themselves or with land grant interest and net profits from proprietary activities, or from sources other than by appropriations by the legislature of the State of Utah to such issuing institutions, any or all, to assure the prompt payment of principal and interest on the bonds as each becomes due and to make and enforce such rules and regulations with reference to the use of the building, and with reference to requiring any class or classes of students to use the building as it may deem desirable for the welfare of the institution and its students or for the accomplishment of the purposes of this act;

(8) To covenant to maintain a maximum percentage of occupancy of the building;

(9) To covenant against the issuance of any other obligations payable from the revenues to be derived from the building, unless subordinated;

(11) To make covenants other than and in addition to those herein expressly mentioned of such character as may be considered necessary or advisable to effect the purposes of this act.

All such agreements and covenants entered into by the board shall be binding in all respects upon the board and its officials, agents, and employees, and upon its successors, and all such agreements and covenants shall be enforceable by appropriate action or suit at law or in equity, which may be brought by any holder or holders of bonds issued hereunder.

Section 2. Constitutionality.

If any one or more sections, sentences, clauses, phrases, or provisions of this act are for any reason held to be invalid, all remaining parts of this act shall nevertheless continue to be valid and effective, the legislature hereby declaring that all provisions of this act are severable.

Section 3. Effective Date.

This act shall take effect upon approval.

Approved March 14, 1957.

CHAPTER 105

S. B. No. 54. (Passed March 13, 1957. In effect July 1, 1957.)

COORDINATING BOARD OF HIGHER EDUCATION

An Act Creating a Coordinating Board of Higher Education for the State of Utah; Providing for the Membership and Organization of Such Board and Prescribing its Duties; Appropriating $25,000 from the General Fund for Payment of Expenses of the Board; Providing an Effective and Termination Date.

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

Section 1. Coordinating Board of Higher Education Created.

There is created a coordinating board of higher education for the State of Utah.

Section 2. Membership — How Chosen.

(1) The coordinating board shall be composed of thirteen members chosen as follows:

(a) The Board of Regents of the University of Utah shall designate its chairman and one member of its board to serve on said coordinating board;

(b) The Board of Trustees of the Utah State Agricultural College shall designate its chairman and one member of its board to serve on said coordinating board;

(c) The State Board of Education shall designate its president and one member of its board to serve on said coordinating board;

(d) The Governor shall appoint three resident citizens to serve on said coordinating board;

(e) The Legislative Council shall appoint two members from each house of the Legislature to serve on said coordinating board;

(2) Terms of office shall be from July 15, 1957, to June 30, 1959.

Section 3. Meetings — How Called.

The Legislative Council shall call the first meeting at which time the board shall elect a chairman and other officers of the board. Each subsequent meeting shall be called by the chairman.

Section 4. Employment of Personnel.

The board shall employe such personnel as it deems necessary to accomplish the purposes of this act.

Section 5. Powers and Duties of Board.

It shall be the power and the duty of the board, under the supervision of the Legislative Council, to:

1. Formulate a statement of aims, purposes and objectives of higher education for the state.

2. Appraise the existing institutional programs of higher education and include as part of the appraisal a study of the junior college, vocational, and other post-high-school programs with a recommendation defining such programs and specifying procedures for integrating all programs into a state system of higher education, including a plan of financing.

3. Determine the relationship of existing institutions, both public and private, and the relationship of institutions of higher learning to the elementary and secondary school system.

4. Develop and evaluate criteria for institutional expansion or curtailment.

5. Study needs for expansion or curtailment of higher education at existing institutions.

6. Require information for adequate investigation and hearings in determining the role and purposes of each institution and proposals for coordinating such institutions.

7. Promote public understanding of the program of higher education in the state.

8. Study financial practices and requirements of institutions for the purpose of formulating a uniform budget for higher education.

9. Study capital outlay needs and requests for special programs of research, extension and experimentation.

10. Study future educational needs and recommend legislation to provide for such needs.

11. Prepare a report specifically on the kind of board or boards, including powers and functions, that will provide the most effective and economical program of higher education in the state.

12. Submit a report of findings and recommendations to the legislative council not later than September 15, 1958, and to the 1959 Legislature.

Section 6. Appropriation.

There is appropriated from the general fund from funds not otherwise used, the sum of $25,000, or so much thereof as may be necessary, to be used by the corrdinating board in carrying out its functions. Disbursement of these funds shall be under the control and direction of the Legislative Council.

Section 7. Effective Date.

This act shall take effect July 1, 1957.

Section 8. Expiration Date.

This act shall expire June 30, 1959.

Approved March 26, 1957.

PUBLIC UTILITIES

CHAPTER 106

S. B. No. 44. (Passed March 13, 1957. In effect March 16, 1957.)

SEWERAGE CORPORATION DEFINED

An Act Amending Sections 54-2-1, 54-4-25 and 54-7-9, Utah Code Annotated 1953, Relating to Public Utilities; Defining the Term "Sewerage Corporation," and Providing that They be Subjected to the Public Utility Laws of Utah; Emergency Clause.

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

Section 1. Sections Amended.

Sections 54-2-1, 54-4-25, and 54-7-9 Utah Code Annotated 1953, are amended to read:

54-2-1. Terms Defined — Utilities Subject to Jurisdiction and Regulation — Sale of Surplus Power, Gas, or Water to Public Utility.

When used in this title:

(1) The term "commission" means the public utilities commission of the state of Utah.

(2) The term "commissioner" means a member of the commission.

(3) The term "corporation" includes a corporation, an association and a joint stock company having any powers or privileges not possessed by individuals or partnerships, but shall not include towns, cities, counties, conservancy districts, improvement districts or other governmental units created or organized under any general or special law of this state.

(4) The term "person" includes an individual, a firm, a corporation and a copartnership.

(5) The term "transportation of persons" includes every service in connection with or incidental to the safety, comfort or convenience of the person transported, and the receipt, carriage and delivery of such person and his baggage.

(6) The term "transportation of property" includes every service in connection with or incidental to the transportation of property, including in particular its receipt, delivery, elevation, transfer, switching, carriage, ventilation, refrigeration, icing, dunnage, storage and hauling; and the transmission of credit by express companies.

(7) The term "street railroad" includes every railway, and each and every branch or extension thereof, by whatsoever power operated, being mainly upon, along, above or below any street, avenue, road, highway, bridge or public place within any city or town, together with all real estate, fixtures and personal property of every kind used in connection therewith, owned, controlled, operated or managed for public service in the transportation of persons or property; but the term "street railroad" shall not include a railway constituting or used as a part of a commercial or interurban railway.

(8) The term "street railroad corporation" includes every corporation and person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any street railroad for public service within this state.

(9) The term "railroad" includes every commercial, interurban and other railway, other than a street railway, and each and every branch or extension thereof, by whatsoever power operated, together with all tracks, bridges, trestles, rights-of-way, subways, tunnels, stations, depots, union depots, yards, grounds, terminals, terminal facilities, structures and equipment, and all other real estate, fixtures and personal property of every kind used in connection therewith, owned, controlled, operated or managed for public service in the transportation of persons or property.

(10) The term "railroad corporation" includes every corporation and person, their lessees, trustees and receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any railroad for public service within this state.

(11) The term "express corporation" includes every corporation and person, their lessees, trustees and receivers or trustees appointed by any court whatsoever, engaged in or transacting the business of transporting any freight, merchandise or other property for public service on the line of any common carrier or stage or auto line within this state.

(12) The term "automobile corporation" includes every corporation and person, their lessees, trustees and receivers or trustees appointed by any court whatsoever, engaged in or transacting the business of transporting passengers or freight, merchandise or other property for public service by means of automobiles or motor stages on public streets, roads or highways along established routes within this state.

(13) The term "aerial bucket tramway corporation" includes every corporation and person, their lessees, trustees and receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any aerial bucket tramway for public service in this state, except where the aerial tramway is used only for the purpose of delivering raw material to an industrial or manufacturing plant from its customers.

(14) The term "common carrier" includes every railroad corporation; street railroad corporation; automobile corporation; aerial bucket tramway corporation; express corporation; dispatch, sleeping, dining, drawing-room, freight, refrigerator, oil, stock and fruit car corporations; freight line, car loaning, car-renting, car-loading, and every other car corporation, and person; their lessees, trustees and receivers or trustees appointed by any court whatsoever, operating for public service within this state; and every corporation and person, their lessees, trustees and receivers or trustees appointed by any court whatsoever, engaged in the transportation of persons or property for public service over regular routes between points within this state.

(15) The term "heating plant" includes all real estate, fixtures, machinery, appliances and personal property controlled, operated or managed in connection with or to facilitate the production, generation, transmission, delivery or furnishing of artificial heat.

(16) The term "heat corporation" includes every corporation and person, their lessees, trustees and receivers or trustees appointed by any court whatsover, owning, controlling, operating, or managing any heating plant for public service within this state.

(17) The term "gas plant" includes all real estate and fixtures and personal property owned, controlled, operated or managed in connection with or to facilitate the production, generation, transmission, delivery or furnishing of gas (natural or manufactured) for light, heat or power.

(18) The term "gas corporation" includes every corporation and person, their lessees, trustees and receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any gas plant for public service within this state, except where gas is made or produced on, and distributed by the maker or producer through, private property alone, solely for his own use or the use of his tenants and not for sale to others.

(19) The term "electric plant" includes all real estate and fixtures and personal property owned, controlled, operated or managed in connection with or to facilitate the production, generation, transmission, delivery or furnishing of electricity for light, heat or power, and all conduits, ducts or other devices, materials, apparatus or property for containing, holding or carrying conductors used or to be used for the transmission of electricity for light, heat or power.

(20) The term "electrical corporation" includes every corporation and person, their lessees, trustees and receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any electric plant, or in anywise furnishing elecric power, for public service within this state except where electricity is generated on or distributed by the producer through private property alone, solely for his own use or the use of his tenants and not for sale to others.

(21) The term "telephone line" includes all conduits, ducts, poles, wires, cables, instruments and appliances, and all other real estate and fixtures and personal property owned, controlled, operated or managed in connection with or to facilitate communication by telephone whether such communication is had with or without the use of transmission wires.

(22) The term "telephone corporation" includes every corporation and person, their lessees, trustees and receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any telephone line for public service within this state.

(23) The term "telegraph line" includes all conduits, ducts, poles, wires, cables, instruments and appliances, and all other real estate and fixtures and personal property owned, controlled, operated or managed in connection with or to facilitate communication by telegraph, whether such communication be had with or without the use of transmission wires.

(24) The term "telegraph corporation" includes every corporation and person, their lessees, trustees and receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any telegraph line for public service within this state.

(25) The term "water system" includes all reservoirs, tunnels, shafts, dams, dykes, headgates, pipes, flumes, canals, structures and appliances ,and all other real estate and fixtures and personal property owned, controlled, operated or managed in connection with or to facilitate the diversion, development, storage, supply, distribution, sale, furnishing, carriage, appointment, apportionment or measurement of water for power, fire protection, irrigation, reclamation or manufacturing, or for municipal, domestic or other beneficial use; provided, this shall not apply to private irrigation companies engaged in distributing water only to their stock holders.

(26) The term "water corporation" includes every corporation and person, their lessees, trustees and receivers or trustees appointed by any court whatsover, owning, controlling, operating or managing any water system for public service within this state; *provided,* this shall not apply to private irrigation companies engaged in distributing water only to their stockholders; nor shall the term include towns, cities, counties, water conservancy districts, improvement districts or other governmental units created or organized under any general or special law of this state.

(27) The term "sewerage corporation" includes every corporation and person, their lessees, trustees and receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any sewerage system for public service within this state; *provided,* this shall not apply to private sewerage companies engaged in disposing of sewage only for their stockholders; nor shall the term include towns, cities, counties, conservancy districts, improvement districts or other govern-

mental units created or organized under any general or special law of this state.

(28) The term "warehouseman" includes every corporation and person, their lessees, trustees and receivers or trustees appointed by any grain elevator or any building or structure in which property is regularly stored for public use within this state, in connection with or to facilitate the transportation of property by a common carrier or the loading or unloading of the same.

(29) The term "public utility" includes every common carrier, gas corporation, electric corporation, telephone corporation, telegraph corporation, water corporation, sewage corporation, heat corporation and warehouseman where the service is performed for, or the commodity delivered to, the public generally. And whenever any common carrier, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, sewage corporation, heat corporation or warehouseman performs a service for or delivers a commodity to the public for which any compensation or payment whatsoever is received, such common carrier, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporatoion, sewage corporation, and warehouseman is hereby declared to be a public utility, subject to the jurisdiction and regulation of the commission and to the provisions of this title. Except, as hereinafter provided, when any person or corporation performs any such service for or delivers any such such commodity to any public utility herein defined, such person or corporation, and each thereof, is hereby declared to be a public utility, and to be subject to the jurisdiction and regulation of the commission and to the provisions of this title. Any corporation or person not engaged in business exclusively as a public utility as hereinbefore defined shall be governed by the provisions of this title in respect only to the public utility or public utilities owned, controlled, operated or managed by it or by him, and not in respect to any other business or pursuit.

Provided, that whenever any person, association, company or corporation, not engaged in business as a public utility as defined by this act shall be able to produce a surplus of electric energy or power, gas or water, beyond the needs of its own business and shall desire to sell, exchange, delivery or otherwise dispose of such surplus to or with any public utility as in this act defined, such public utility desiring to effect a purchase or exchange of such surplus shall submit to the commission, for authorization by said commission, a proposed contract covering such purchase or exchange. The commission shall thereupon determine, after a public hearing, whether, in the public interest it shall be advisable that such contract be executed and, if not adverse to the public interest, said commission shall authorize the execution of said contract, and thereupon such public utility shall have the right to purchase and receive or exchange such surplus products in accordance with the terms of such contract. Such person, company, corporation or association selling or exchanging such surplus product under such authorized contract shall not thereby beome a public utility within the meaning of this act, nor shall it be subject to the jurisdiction of the commission.

54-4-25. Certificate of Present or Future Public Convenience and Necessity — Who Must Have — Application — Evidence Required.

(1) No railroad corporation, street railroad corporation, aerial bucket tramway corporation, gas corporation, electric corporation, telephone corporation, telegraph corporation, heat corporation, automobile corporation, water corporation or sewage corporation shall henceforth establish, or begin construction or operation of a railroad, street railroad, aerial bucket tramway, line, route, plant or system, or of any extension of such railroad, street railroad, aerial bucket tramway, line, route, plant or system, without having first obtained from the commission a certificate that present or future public convenience and necessity does or will require such construction; *provided,* that this section shall not be construed to require any such corporation to secure such certificate for an extension within any city or town within which it shall have heretofore lawfully commenced operations, for for an extension into territory, either within or without a city or town, contiguous to its railroad, street railroad, aerial bucket tramway, line, plant or system not theretofore served by a public utility of like character, or for an extension, within or to territory already served by it, necessary in the ordinary course of its business; provided further, that if any public utility is constructing or extending its line, plant or system shall interfere or be about to interfere with the operation of the line, plant or system of any other public utility already constructed, the commission, on complaint of the public utility claiming to be injuriously affected, may, after hearing, make such order and prescribe such terms and conditions for the location of the lines, plants or systems affected as to it may seem just and reasonable.

(2) No public utility of a class specified in subsection (1) hereof shall henceforth exercise any right or privilege under any franchise or permit hereafter granted, or under any franchise or permit heretofore granted but not heretofore actually exercised or the exercise of which has been suspended for more than one year, without first having obtained from the commission a certificate that public convenience and necessity require the exercise of such right or privilege; *provided,* that when the commission shall find, after hearing, that a public utility has heretofore begun actual construction work and is prosecuting such work in good faith, uninterruptedly and with reasonable diligence in proportion to the magnitude of the undertaking under any franchise or permit heretofore granted but not heretofore actually exercised, such public utility may proceed, under such rules and regulations as the commission may prescribe, to the completion of such work, and may after such completion exercise such right or privilege; and provided further, that this section shall not be construed to validate any right or privilege now invalid or hereafter becoming invalid under any law of this state.

(3) Every applicant for such a certificate shall file in the office of the commission such evidence as shall be required by the commission to show that such applicant has received the required consent, franchise or permit of the proper county, city, municipal or other public authority.

The commission shall have power, after a hearing, to issue said certificate as prayed for to refuse to issue the same, or to issue it for the construction of a portion only of the contemplated railroad, street railroad, aerial bucket tramway, line, plant or system, or extension thereof, or for the partial exercise only of said right or privilege and may attach to the exercise of the rights granted by said certificate such terms and conditions as in its judgment public convenience and necessity may require. If a public utility desires to exercise a right or privilege under a franchise or permit which it contemplates securing but which has not yet been granted to it, such public utility may apply to the commission for an order preliminary to the issue of the certificate. The commission may thereupon make an order declaring that it will thereafter upon application, under such rules and regulations as it may prescribe, issue the desired certificate upon such terms and conditions as it may designate after the public utility has obtained such contemplated franchise to it that such franchise or permit has been secured by such public or permit. Upon presentation to the commission of evidence satisfactory utility, the commission shall thereupon issue such certificate.

54-7-9. Complaint — By Whom Instituted.

Complaint may be made by the commissiion of its own motion, or by any corporation or person, chamber of commerce, board of trade, or by any civic, commercial, mercantile, traffic, agricultural or manufacturing association or organization, or any body politic or municipal corporation, by petition or complaint in writing, setting forth any act or thing done or omitted to be done by any public utility in violation, or claimed to be in violation, of any provisions of law, or of any order or rule of the commission; *provided,* that no complaint shall be entertained by the commission, except upon its own motion, as to the reasonableness of any rates or charges of any gas, electrical, water, sewerage or telephone corporation, unless the same is signed by the mayor or the president or chairman of the board of trustees or commissioners or a majority of the council, commission or other legislative body of the city, county or town within which the alleged violation occurred, or by not less than twenty-five consumers or purchasers, or prospective consumers or purchasers, of such gas, electricity, water, sewage or telephone service. All matters upon which complaint may be founded may be joined in one hearing, and no motion shall be entertained against a complaint for misjoinder of causes of action or grievances or misjoinder or nonjoinder of parties; and in any review by the courts of orders or decisions of the commission the same rule shall apply with regard to the joinder of causes and parties as herein provided.

The commission shall not be required to dismiss any complaint because of the absence of direct damage to the complainant. Upon the filing of a complaint the commission shall cause a copy thereof to be served upon the corporation or person complained of. Service in all hearings, investigations and proceedings pending before the commission may be made upon any person upon whom a summons may be served in accordance with the provisions of the Code of Civil Procedure, and may be made personally or by mailing in a sealed envelope, registered, with postage prepaid. No irregularity regarding service shall be ground of

excuse or defense by any public utility. The commission shall fix the time when and place where a hearing will be had upon the complaint and shall serve notice thereof, not less than ten days before the time set for such hearing, unless the commission shall find that public necessity requires that such hearing be held at an earlier date.

Section 2. Effective Date.
This act shall take effect upon approval.
Approved March 16, 1957.

CHAPTER 107

S. B. No. 168. (Passed March 13, 1957. In effect May 14, 1957.)

MOTOR VEHICLE TRANSPORTATION—INSURANCE REQUIRED

An Act Amending Sections 54-6-12 and 54-6-17, Utah Code Annotated 1953, as Amended by Chapter 87, Laws of Utah 1953, Relating to Exceptions from the Provision of the Act and Relating to Public Liability and Property Damage Insurance Required on Motor Carriers; Providing Certain Government Vehicles No Longer Excepted; Providing for Filing with the Commission of Certificates of Insurance in Lieu of Policies; and Relating to Filing a Surety Bond for Prompt Remittance of C.O.D. Collections by Motor Carriers, and Keeping of Records Thereof; and Relating to Cancellation of Motor Carrier Certificate, Permit or License for Failure to Comply; and Relating to Power of the Commission to Prescribe Rules and Regulations for Administration; Savings Clause; and Repealing Sections 54-6-14 and 54-6-15, Utah Code Annotated 1953, Relating to License Plates and Inspectors for Common and Contract Motor Carriers.

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

Section 1. Sections Amended.
Sections 54-6-12 and 54-6-17, Utah Code Annotated 1953, as amended by Chapter 87, Laws of Utah 1953, are amended to read:

54–6–12. Exceptions from Provisions of Act.
Except for the provisions of 54-6-17 relative to requirements of insurance, 54-6-21 relative to safety regulations, and 54-6-22 relative to accident report no portion of this act shall apply:

(a) To motor vehicles when engaged exclusively in transporting students or their instructors to or from school or to or from school activities, the word "school" to be construced to mean a place or structure in which the annual winter or summer elementary, collegiate, university or religious instruction is carried on; or

(b) To motor vehicles when used exclusively in carrying the United States mail under contract with the federal government; or

(c) To motor vehicles when the cargo consists exclusively of livestock, farm, orchard, or dairy products which are being transported between farm, orchard or dairy and a market, warehouse, creamery or processing plant; or exclusively of farm or dairy supplies used in or

about the farm and dairy; or exclusively of lumber or logs which are being transported from forest to shipping point or market; or

(d) To motor vehicles when owned or operated by any duly organized agriculture cooperation association and used exclusively in the carrying on of its legally authorized non-profit activities; or

(e) To motor vehicles used exclusively in the distribution of newspapers from the publisher to subscribers or distributors; or

(f) To motor vehicles when especially constructed for towing, wrecking, maintenance, or repair purposes, and not otherwise used in transporting goods and merchandise for compensation; or when constructed as armored cars and used for the safe conveyance or delivery of money or other valuables ,or when used as hearses, ambulances, or licensed taxicabs, operating within a fifteen mile radius of the limits of any city or town; or to motor vehicles used as ambulances or hearses by any person, firm or corporation duly licensed in the state as an embalmer, funeral director, or as a mortuary establishment, provided that use of such motor vehicles as an ambulance shall be incidental to the use of embalming or funeral directing.

(g) To a group of employees riding together in the automobile of a fellow employee to and from their employment and sharing the actual expenses of the transportation; provided that said group of employees shall not exceed 5 persons, in addition to the driver of the vehicle, and in no event to exceed 3 persons in any one seat, and *provided further* that this subsection shall not apply to any individual so operating in excess of one motor vehicle.

It shall be unlawful for any vehicle which is operated under any of said exempt classes to be operated upon the public highways of this state, for hire; without a public liability policy in an amount not less than $20,000.00 for personal injuries to or death of one person, or less than $40,000.00 for injuries to or death of more than one person; and for damage to property of any person other than the assured in an amount not less than $10,000.00 for liability arising out of the operation of said vehicle for hire; without maintaining said vehicle and all parts thereof in a safe condition at all times and without reporting every accident arising from or in connection with the operation of such vehicle as required by law or to be operated for any uses or purposes not falling within said exempt classes, except in accordance with the provisions of this act.

The commission shall have power and authority to prescribe such reasonable rules and regulations to carry out the purposes of this act as may be deemed necessary including the establishing of reasonable fees for registration and each annual renewal thereof of exempt carriers and for the services performed by the commission.

The commission is vested with power and authority and it shall be its duty to supervise and regulate all motor carriers as excepted above in accordance with these rules and regulations and with the provisions of this section and all carriers now operating under the provisions of this section shall make application to register their operation with the public service commission on or before July 1, 1957, and thereafter each carrier commencing operations under this section shall apply for registration as provided herein within 30 days immediately after said operation.

A violation of this section or of the rules established pursuant thereto shall constitute an unlawful act and shall be punishable in the same manner and to the same extent as provided for in this act for non-exempt carriers.

54–6–17. Carrier Must Comply with Reasonable Rules and Regulations —Public Liability, Cargo, Property Insurance or Furnish Bond.

No certificate, permit or license shall be issued by the commission to any common or contract motor carrier or remain in force unless such applicant, or authorized carrier, shall have complied with such reasonable rules and regulations as the commission shall prescribe governing filing and approval of certificates of insurance and shall have filed with and obtained approval by the commission of a certificate of insurance executed by an insurance company or association authorized to transact business in this state, upon a form as prescribed by the commission that there is in full force and effect a policy of insurance conditioned to pay any final judgment recovered against such motor carrier for bodily injuries to or the death of any person resulting from the negligent operation, maintenance or use of motor vehicles under such certificate or permit, or for loss or damage to property of others and in such reasonable sum as the commission may prescribe to be adequate to protect the interests of the public; *provided*, that the amount of coverage of the public liability insurance policies for personal injury or death held by each carrier shall, for one act of negligence, be not less than $20,000 for personal injuries to, or death of one person, and subject to said limit for one person not less than $40,000 for injuries to or death of more than one person, and for damage to property of any person, other than the assured, not less than $10,000. Each common motor carrier of property operating wholly within this state shall file with the commission under such rules and regulations as the commission may prescribe an additional certificate which shall be a certificate of cargo insurance in an amount to be fixed by the commission. Such policy or policies shall cover all motor vehicles used or to be used, and shall provide that any person having a right of action against such motor carriers or injuries to persons, loss of or damage to property, or loss of or damage to cargo, when service cannot be obtained on the motor carrier within this state, may bring action for recovery directly upon such insurance policy or policies and against the insurance company or association. In lieu of the insurance herein provided for, the commission may, in its discretion, accept a bond, to be approved by it, under such rules and regulations as the commision may prescribe, with a sufficient corporate surety or not less than two personal sureties, who shall be residents and free holders of this state, conditioned to pay all such damages as are herein provided for. No other or additional insurance or bonds than those prescribed in this act shall be required of any motor carrier by any city or town or other agency of this state. *Provided, however*, that this section shall not apply in instances where, nor to carriers with respect to which, because of the type of service rendered or commodity transported, insurance is not obtainable to companies qualified to do business in this state; nor in such cases shall any personal bond or other insurance coverage be required.

Under such rules and regulations as the commission may prescribe, the commission, in its discretion, may require any common carrier by motor vehicle who holds a certificate of public convenience and necessity for the transportation of property in intrastate commerce within the State of Utah to file a certificate of policies of insurance or a surety bond in a sum to be established by the commission or be conditioned upon such common carrier making prompt remittance to the consignor or other person designated by the consignor as payee of sums belonging to such consignor or designated payee which shall come into the possession of said common carrier through C.O.D. collections. Every such common carrier required by the commission to file a certificate of insurance or bond conditioned upon the prompt remittance of C.O.D. collections shall maintain a complete record of all C.O.D. shipments and such information relative thereto as shall be prescribed by the commission by rules and regulations.

Failure to comply with this statute and the rules and regulations of the commission promulgated thereto shall be sufficient cause for cancellation by the commission of such carrier's certificate, permit, or license to operate in intrastate commerce; *provided*, that before cancellation such carrier shall be given notice of failure to comply and an opportunity to comply with this statute and the rules and regulations of the commission.

The commission shall have power to administer, execute and enforce all provisions of this statute, to make all necessary orders in connection therewith and to prescribe rules, regulations and procedure for such administration.

Section 2. Constitutionality.

If any part of this act schall be held to be unconstitutional, such unconstitutionality shall not affect the validity of the remaining parts thereof and the legislature declares that it would have passed the remaining parts of this act if it had known that such parts or parts thereof would be declared unconstitutional.

Section 3. Sections repealed.

Sections 54-6-14 and 54-6-15, Utah Code Annotated 1953, are repealed.

Approved March 21, 1957.

PUBLIC WELFARE

CHAPTER 108

PUBLIC ASSISTANCE — RIGHT TO

S. B. No. 40 (Passed February 27, 1957. In effect May 14, 1957.)

An Act Amending Section 55-2-4, Utah Code Annotated 1953, as Amended by Chapter 90 of Laws of Utah 1953, Relating to Eligibility for Public Assistance; Providing the Department of Public Welfare with Discretionary Powers.

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

Section 1. Section Amended.

Section 55-2-4, Utah Code Annotated 1953, as amended by Chapter 90 of Laws of Utah 1953, is amended to read:

55-2-4. Right to Public Assistance — Property Maximums Disqualifying Persons from Assistance — Temporary Assistance.

Public assistance shall be provided under this act to any needy individual in the state who does not have sufficient resources actually available for his use, to maintain a minimum standard of living in accordance with Section 55-2-10, and who qualifies for assistance under the provisions of this act. Ownership of money or other tangible property or its equivalent in real or personal property, exclusive of the home owned and occupied by the applicant or recipient, and the furniture and furnishings therein up to but not to exceed $300.00 for an individual living alone or $600.00 for two or more persons living together as a family unit, and life insurance policies up to but not to exceed $500.00 in aggregate cash value for an individual living alone or $1000.00 for two or more persons living together as a family unit, shall not disqualify an applicant or recipient from receiving assistance under this act; *provided,* that the income from such property, together with any other income or resources actually available to the applicant or recipient shall be taken into consideration in the determination of the amount of an assistance grant. The public welfare department may grant public assistance on a temporary basis to an applicant or recipient owning or possessing personal property or life insurance in excess of the amount designated herein if and when in its discretion such action will be for the best interest of the recipient and the state and on such terms or conditions as the department shall deem to be equitable.

An applicant for or recipient of assistance shall be required prior to receiving any assistance from the county welfare board or the state department to execute a form provided by the state department describing all property, both real and personal, owned by the applicant or recipient, all insurance owned by any members of the family, and all income.

Whenever an applicant for public assistance has transferred real property within ten years prior to application or whenever a recipient transfers real property at any time he will be expected to obtain reasonably good and valuable consideration approximately equal to the value of the property transferred. If the applicant or recipient did not receive reasonably good and valuable consideration, the applicant or recipient may be declared ineligible for the number of months obtained by dividing the market value of the property transferred by the needs budget of the state department in effect on the date of reapplication. Exceptions to this period of suspension may be permitted in unusual situations for persons or families subjected to extraordinarily difficult problems by reason of their particular, special situations. The maximum property limitations of section 55-2-4 may be deducted from the market value before making the computation outlined above. Consideration may also be given to any legal debts of any nature assumed by the grantee of the property, the payment or

assumption of a mortgage against the property transferred and other legitimate obligations which the state department may determine to be necessary.

Approved March 6, 1957.

CHAPTER 109

H. B. No. 54. (Passed March 13, 1957. In effect July 1, 1957.)

PUBLIC ASSISTANCE — STANDARDS

An Act Amending Section 55-2-10, Utah Code Annotated 1953, As Amended by Chapter 90, Laws of Utah, Increasing the Maximum Payments to Welfare Recipients, and Adding a New Section to be Known as Section 55-2-20, Utah Code Annotated 1953, Authorizing the Public Welfare Commission to Provide a Personnel Training Program for Commission Staff and a Health Program for Needy Persons Using State and Federal Funds to Cover the Costs Thereof.

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

Section 1. Section Amended.

Section 55-2-10, Utah Code Annotated 1953, as amended by Chapter 90, Laws of Utah 1953, is amended to read:

55–2–10. Maximum Standards of Assistance — Adjustments — Exceptions Permitted.

The public welfare commission, with the advice of county and district boards of public welfare, shall establish standards of assistance based upon studies of current living standards and costs, said standards of assistance to be applied uniformly in the determination of the need of all applicants and recipients, adjusted upward, or downward whenever the cost of living index as determined by the United States Department of labor shows change sufficient to warrant such adjustment, and shall reflect significant differentials in standards of living and in cost that may exist in the various communities of the state, *provided,* that budgetary needs for or in behalf of any one case in any one month shall be subject to the following maximums: one-person case, $75; two-person case, $120; three-person case, $142; for each additional person up to and including seven, eighteen dollars; for each adidtional person in the case, twelve dollars. The payment to any recipient shall be adjusted downward by the amount of income from other sources. The foregoing maximums shall be adjusted upward or downward in direct ratio to the increases or decreases in the cost direct ratio to the increases or decreases in the cost of living as shown by the United States Department of Labor cost of living index in the United States. The maximum heretofore set forth shall be considered standard as of January 1, 1957. The following payments made in behalf of a recipient shall be disregarded in determining the application of the maximums herein provided:

a. Vendor payments for medical, dental and other types of remedial care and for hospitalization;

b. Payments into a pooled medical fund;
c. Insurance premiums paid for medical benefits.

Permissible exceptions to the foregoing maximums for the purpose of meeting the following special costs are:

(a) Assistance as provided for in 55-2-9;
(b) Institutional and nursing home care;
(c) Boarding home care;
(d) Restaurant meals for those persons without housekeeping facilities;
(e) Assistance to persons temporarily subjected to extraordinarily difficult problems of living by reason of their particular, special situations.

The county or district boards of public welfare may request grants in excess of the foregoing maximums, and the public welfare commission is authorized to grant such requests wherever investigations discloses that the recipient and his family, because of illness, lack of employment or other unusual circumstances, need funds in addition to the specified maximum grant to meet its minimum need for food, clothing, shelter and fuel.

Section 2. Section Enacted.

A new Section 55-2-20, Utah Code Annotated 1953, is enacted to read:

55–2–20. Additional Authority.

In addition to the provisions heretofore set forth in this Chapter and in acoordance with provisions of sub-section (d) (g) and (i) of 55-1-6 Utah Code Annotated 1953, the public welfare commission is authorized:

(1) To cooperate with the federal government in a program of training personnel for a more effective and efficient operation of all programs under the administration of the public welfare commission. To this end the department is authorized to receive funds from the federal government and to expend funds, either from state or federal sources for training personnel employed or preparing for employment in any program administered by the public welfare commission, as follows:

(a) Grants to public or other non-profit institutions of higher learning to assist in the training of such persons.

(b) Establishing and maintaining, directly or through grants to such institutions, fellowships or traineeships for such personnel at such institutions, with such stipends and allowances as the department shall determine.

(c) Special courses of study or seminars of short duration conducted for such personnel by experts hired on a temporary basis for the purpose.

In no event shall expenditures from the state funds for the above purposes exceed ¼ of 1% of all funds appropriated to the department of public welfare, its institutions or agencies for any biennial period.

(2) To cooperate with the federal government in promoting the health of the state; and to this end the department may provide to needy persons eligible for public assistance within the federally matched

categories under this chapter medical, dental, or any other type of remedial care together with necessary supplies and hospitalization in connection therewith. The department is authorized to administer such a program and to provide the needed health services either by arguments with agencies, institutions, or other persons who may provide such care, or through public or private insurance programs. Aid rendered to the assistance categories set up under sections 55-2-6, 55-2-7, 55-2-8, Utah Code Annotated 1953, and to such other categories as have heretofore or may hereafter be established to serve needy persons, with federal participation being available to assist therein, such as aid to the disabled, may include medical and dental care or any other type of remedial care together with necessary supplies and hospitalization. Aid provided under this section, either as direct payments or payments into a pooled fund or insurance premiums, shall not be taken into consideration when computing the amount of the lien owing the welfare department because of the expenditures made on behalf of a recipient or his spouse or his child, as the same is provided for in section 55-2-5, Utah Code Annotated 1953, nor shall vendor payments for medical, dental or other care or hospital payments or payments into pool medical funds or insurance premiums paid for medical benefits be taken into consideration as to the maximums set forth in section 55-2-10, Utah Code Annotated 1953. It shall be the intent that the provisions of this section shall authorize the Welfare Department to use the funds available to it under Public Law No. 880, 84th Congress or acts supplemental or amendatory thereto, together with the matching funds appropriated by the Legislature, which funds shall be set up in a special trust fund to be known as the welfare medical fund, which funds shall be non-lapsing and which shall be used to effectuate a health program to the extent such funds will provide the services to meet the health needs of those persons receiving public assistance as money payments from state and federal funds under the other provisions of this chapter.

Section 3. Effective Date.

This act shall take effect July 1, 1957.

Approved March 18, 1957.

CHAPTER 110

H. B. No. 52. (Passed March 13, 1957. In effect May 14, 1957.)

DUTIES OF FAMILY SUPPORT

An Act Relating to Duties of Family Support and to Make Uniform the Law in Respect Thereto; and Providing a Procedure for Enforcing Support.

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

Section 1. Title of Act.

This act may be cited as the Uniform Civil Liability for Support Act.

Section 2. Definitions.

As used in this act:

(1) "State" includes any state, territory or possession of the United States, the District of Columbia and the Comonwealth of Puerto Rico.

(2) "Obligor" means any person owing a duty of support.

(3) "Obligee" means any person to whom a duty of support is owed.

(4) "Child" means a son or a daughter under the age of twenty-one years and a son or daughter of whatever age who is incapacitated from earning a living and without sufficient means.

(5) "Parent" includes either a natural parent or an adoptive parent.

Section 3. Duty to Support — Wife and Child.

Every man shall support his wife and his child.

Section 4. Duty to Support Child — Needy Husband.

Every woman shall support her child; and she shall support her husband when he is in need.

Section 5. Duty of Support Regardless of Presence or Residence of Obligee.

An obligor present or resident in this state has the duty of support as defined in this act regardless of the presence or residence of the obligee.

Section 6. Jurisdiction in District Court.

The district court shall have jurisdiction of all proceedings brought under this act.

Section 7. Factors to Determine Amount of Support Due.

When determining the amount due for support the court shall consider all relevant factors including but not limited to:

(1) the standard of living and situation of the parties;

(2) the relative wealth and income of the parties;

(3) the ability of the obligor to earn;

(4) the ability of the obligee to earn;

(5) the need of the obligee;

(6) the age of the parties;

(7) the responsibility of the obligor for the support of others.

Section 8. Continuing Jurisdiction of Court.

The court shall retain jurisdiction to modify or vacate the order of support where justice requires.

Section 9. Enforcement of Duty of Support — Obligee — Department of Public Welfare — Duty of County Attorney.

The obligee may enforce his right of support against the obligor and the state department of public welfare may proceed on behalf of the obligee to enforce his right of support against the obligor. Whenever the state department of public welfare furnishes support to an obligee, it has the same right as the obligee to whom the support was furnished, for the purpose of securing reimbursement and of obtaining continuing support. Whenever such action is commenced by the state department of public welfare, it shall be the duty of the county attorney, of the

county of residence of the obligee, to represent the state department of public welfare.

Section 10. Right of Appeal.
Appeals may be taken from orders and judgments under this act as in other civil actions.

Section 11. Competency of Spouses to Testify.
Laws attaching a privilege against the disclosure of communications between husband and wife are inapplicable under this act. Spouses are competent witnesses to testify to any relevant matter, including marriage and parentage.

Section 12. Rights Herein Cumulative Not Restrictive.
The rights herein created are in addition to and not in substitution to any other rights.

Section 13. Constitutionality.
If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provision or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 14. Interpretation of Act.
This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

Approved March 16, 1957.

CHAPTER 111

S. B. No. 212. (Passed March 13, 1957. In effect March 15, 1957.)

PUBLIC WORKS PROJECTS

An Act Amending Sections 55-3-3, 55-3-14, 55-3-16, Utah Code Annotated 1953, Relating to the Acquisition, Improvement, Enlargement, Extension and Repair of Revenue Producing Public Works Projects and Services by Counties, Cities and Incorporated Towns, and the Issuance of Revenue Bonds for the Financing Thereof, and Providing for An Extension of Authority; and Repealing Sections 55-3-8, 55-3-12, 55-3-23, 55-3-24, Utah Code Annotated 1953, Relating to the Public Works Program; and an Emergency Clause.

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

Section 1. Sections Amended.
Sections 55-3-3, 55-3-14 and 55-3-16, Utah Code Annotated 1953, are amended to read as follows:

55-3-3. Issuance of Bonds Authorized — Type — Nature — Payment Restricted to Net Revenues from Projects — Bonds not Indebtedness of County or Municipality.

Any county, city or incorporated town may issue bonds hereunder for the purpose of acquiring, through purchase, construction, or any combination thereof, improving, enlarging, extending or repairing any project or utility authorized in Section 55-3-1, or any combination of such projects and utilities. Such bonds may be authorized by ordinance to be adopted by the governing body, shall be fully negotiable for all purposes, shall mature at such time or times not more than forty years from their date, shall bear interest at such rate or rates not greater than six per cent per annum, shall be payable at such place or places, shall be in such form, may be redeemable prior to maturity at such times and on such terms, shall be sold in such manner and at such prices not resulting in a net interest cost of more than six per cent per annum computed to majority according to standard tables of bond values, and generally shall be issued in such manner and with such details as may be provided in the aforesaid ordinance. Such bonds shall not be subject to any limitations or provisions of other statutes of the state now existing or hereafter enacted in conflict herewith. Principal of and interest on such bonds shall be payable solely from the net revenues derived from the operation of the projects or utilities to be acquired, improved, enlarged, extended or repaired with the proceeds thereof. Bonds issued solely for the purpose of improving or extending an existing county or municipality owned project or utility or combination thereof may be made payable solely from the net revenues to be derived from the operation of such improvements or extensions or both, as provided in Section 55-3-14. In no case shall the principal of or interest on such bonds be made a charge upon the proceeds of taxes received by such county, city or incorporated town. No bond or coupon issued pursuant to this chapter shall constitute an indebtedness of any such county, city or incorporated town within the meaning of any state constitutional provision or statutory limitation. It shall be plainly stated on the face of each such bond and coupon that same have been issued under the provisions of this act and do not constitute an indebtedness of such county, city or incorporated town within the meaning of any state constitutional or statutory limitation. "Net revenues" as used herein shall be understood to refer to gross revenues remaining after there shall have been first paid therefrom the reasonable and necessary expenses of operating and maintaining the utility or project and keeping it in good repair and working condition. Any ordinance authorizing bonds hereunder may contain such covenants with the future holder or holders of the bonds as to the management and operation of the affected utility or project, the imposition and collection of fees and charges for commodities and services furnished thereby, the disposition of such fees and revenues, the issuance of future bonds, the creation of future liens and encumbrances against such project or utility, the carrying of insurance, the keeping of books and records, the deposit and paying out of revenues and bond proceeds, the appointment and duties of a trustee, and other pertinent matters as may be deemed proper by the governing body to assure the marketability of the bonds. Where bonds

are issued hereunder in whole or in part for sewer purposes and the issuing county, city or town operates a waterwork system, provision may be made in the ordinance pursuant to which charges for sewer service and water services are to be billed in a single bill to each customer and payment of the charges for water accepted only when the charge for sewer service is paid at the same time and the governing body may agree to suspend water or sewer service or both to any customer who shall become delinquent in the payment of charges due for either.

55-3-14. Improvement Projects — Revenue Bonds — Apportionment and Application of Revenue — Issuance of Bonds Only on Approval of Majority of Qualified Voters — Elections.

Whenever any county, city or incorporated town now or hereafter owing and operating a project or utility as described in section 55-3-1, whether constructed under the provisions of this act or not, shall desire to construct improvements or extensions thereto, it may issue revenue bonds under the provisions of this chapter to pay for same, and the procedure therefor, including the fixing of rates and the computation of the amounts thereof, shall be the same as in this chapter provided for the issuance of bonds for the purchase or construction of such a project or utility in a county, city or incorporated town which has not theretofore owned and operated such a project or utility; *provided, however,* that in the ordinance authorizing the bonds, the governing body of the county, city or incorporated town, as the case may be, may provide, find and declare, in addition to the other requirements set out in the statute, the value of the then existing project or utility and the value of the extensions or improvements proposed to be constructed, and the revenue derived from the entire project or utility, when the contemplated extensions and improvements are completed, as the circumstances may require, and set aside that portion so determined as derived from the said extensions or improvements for the purpose of paying off such bonds and for such sinking fund and reserve, and such revenue shall be deemed to be income derived exclusively from the extensions and improvemnts. Nothing herein contained shall be deemed to limit the power of any such project of any such municipal corporation to pledge or apply other revenues derived from such project or utility to the retirement of such bonds or the provision of such sinking fund or reserve to such extent as they may lawfully so do. If such county, city or town desires to pledge to bonds so issued for extensions or improvements, or both, net revenues of the project or utility, or combination of projects or utilities, not provided, it may do so, but in that event, the bonds shall be issued only if approved by a majority of the qualified voters of the county, city or town voting on the proposition at an election. Voters' qualifications at any such election, including their status as taxpayers, and the manner of calling, holding and canvassing the results of any such election, shall in all respects be identical with those provided in sections 10-7-7 and 10-7-8, as such sections now exist or may hereafter be amended, governing the authorization of general obligation bonds.

55-3-16. Supervision — Regulation — Public Utilities Commission — Service Outside its Boundaries — Exceptions — Other Governmental Agency Supervision Limited — Issuance of Bonds — Ordinances — Right to Contest Legality.

Such county, city or incorporated town, shall be subject to regulations by the public utilities commission of Utah as to any service rendered by it without its boundaries in competition with an existing public utility rendering like service except in the case of the water works and sewer systems and water supply systems except as herein provided the approval of any state board, department, bureau or agency shall not be necessary for the performance of any act of any county, city or town under the provisions of this chapter, including the acquisition, improvement or extension of any project or utility, the operation and maintenance thereof, the fixing of rates and charges for its commodities and services, and the issuance of bonds hereunder. Except as in this chapter expressly otherwise provided, proceedings adopted hereunder may be adopted on a single reading at any regular or special meeting of the governing body. It may be provided in the ordinance authorizing any bonds that such bonds shall recite that they are issued under authority of this chapter. Such recital shall conclusively import full compliance with all of the provisions of this chapter and all bonds issued containing such recital shall be incontestable for any cause whatsoever after their delivery for value. The governing body shall provide for the publication of any ordinance adopted by it in a newspaper published in or having general circulation in the county, city or town, as the case may be. For a period of thirty days after the date of such publication any person in interest shall have the right to contest the legality of such ordinance or any bonds which may be authorized thereby, or the provisions made for the security and payment of any such bonds, and after such time, no one shall have any cause or action to contest the regularity, formality or legality thereof, for any cause whatsoever. This section shall not be construed to affect the functions, powers and duties of the state board of health in approving the construction of sewer facilities in counties, cities or towns. Hereafter cities or towns may issue general obligation water or sewer bonds payable from taxes or revenues or both to mature in not to exceed 40 years from their date.

Section 2. Sections Repealed.

Sections 55-3-8, 55-3-12, 55-3-23 and 55-3-24, Utah Code Annotated 1953, are repealed.

Section 3. Constitutionality.

If any provision of this act, or the application of any provision to any person or circumstances, is held invalid, the remainder of this act shall not be affected thereby.

Section 4. Effective Date.

This act shall take effect upon approval.

Approved March 15, 1957.

CHAPTER 112

H. B. No. 21. (Passed March 8, 1957. In effect May 14, 1957.)

STATE BOARD OF ALCOHOLISM

An Act Repealing Chapter 7, Title 55, Utah Code Annotated 1953; and Creating the Utah State Board on Alcoholism, Defining its Powers and Duties, Making an Appropriation.

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

Section 1. Chapter Repealed.
Chapter 7, Title 55, Utah Code Annotated 1953, is repealed.

Section 2. State Board of Alcoholism Created.
There is created the Utah State Board on Alcoholism, consisting of seven members to be appointed by the Governor. Such appointments shall be selected from members of the Utah Alcoholism Foundation. The first members of the Board shall be appointed as follows: three members shall be appointed for terms of three years, two members shall be appointed for terms of two years, and two members shall be appointed for terms of one year. Subsequent appointments shall be for terms of three years, except that in the case of vacancy the appointment shall be for the unexpired portion of the term. Members of the Board shall serve without salary or compensation of any kind except that they shall be reimbursed for necessary and actual expenses incurred while performing official duties.

Section 3. Authority.
The Utah State Board on Alcoholism is authorized.
(a) To promote or operate programs for rehabilitation and care of acoholics; to cooperate and assist the Utah Alcoholism Foundation and Alcoholics Anonymous by providing them with essential materials for furthering programs of prevention and rehabilitation of alcoholics; and to cooperate with and assist political subdivisions of the State, educational institutions, religious organizations, and other organized groups dealing with problems associated with alcoholism.
(b) To promote or conduct research on alcoholsm.
(d) To promote or establish cooperative relationships with courts, hospitals, and clinics, medical and social agencies, public health authorities, law enforcement agencies, education and research organizations, and other related groups; to promote the establishment and operation of public clinics and other public alcoholism facilities in local communities of the State; to provide consultaton and other assistant to public and private agencies and groups; and to contract for the services of individuals public and private agencies, and to carry out the provisions of this act.

Section 4. Definition — Alcoholic.
The term "alcoholic" as used in this act means any person who habitually uses alcoholic beverages to such an extent that he endangers the health, morals, safety or welfare of himself, or any other person or group of persons.

Section 5. Election of Chairman.

The Utah State Board on Alcoholism shall annually elect from its membership a chairman, vice-chairman, and such other officers as it shall deem advisable. It shall have power to appoint an executive director and to prescribe his duties. The salary of the executive director shall be fixed by the Board with the approval of the Board of Examiners. The Board may adopt rules and regulations governing its organization and procedure. Meetings of the Board shall be held at least once each month. The Board may provide for officers for the conduct of its business.

Section 6. Report of Board.

On or before November 1 of each year preceding a regular session of the Legislature, the Board shall submit a report to the Governor and the Legislature. Such report shall cover the activities of the Board for the preceding two fiscal years and shall include a complete financial statement.

Section 7. Fees for Rehabilitation Services — To Be Deposited with State Treasurer.

The Utah State Board on Alcoholism may with the approval of the Board of Examiners establish and assess fees for rehabilitation services and may accept in the name of and on behalf of the State donations, gifts, devises or bequests of real or personal property or of services. Such fees, donations, gifts, devises or bequests shall be used by the Board in the performance of its powers and duties. Any money so obtained shall be deposited with the State Treasurer and placed to the credit of the Utah State Board on Alcoholism and any unexpended monies so obtained shall not lapse into the general fund at the close of the biennium.

Section 8. Budget Requirements to be Reported — Appropriation.

The Utah State Board on Alcoholism shall prepare and submit to the governor, to be included in his budget to be submitted to the legislature, a budget of the requirements for salaries, wages and general administrative expenses to carry out the provisions of the law for the biennium next following the convening of the legislature.

There is hereby appropriated to the Board from the general fund the sum of $160,000.00.

Approved March 13, 1957.

CHAPTER 113

S. B. No. 42. (Passed March 14, 1957. In effect May 14, 1957.)

JUVENILE COURTS — JUDGES

An Act Amending Sections 55-10-3, Utah Code Annotated 1953, and Providing a New Section to be Known as Section 55-10-3.1, Utah Code Annotated 1953, to Fix the Terms of Judges of Juvenile Courts at Six Years; to Establish Priority Ratings for Incumbent Judges and to Provide for Non-Partisan Selection of Judges.

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

Section 1. Section Amended.
Sec. 55-10-3, Utah Code Annotated 1953, is amended to read as follows:

55–10–3. Juvenile Courts — Creation — Judges — Qualification — Appointment — Salary.

In each juvenile district of the state or in such juvenile court districts as the commission with the approval of the governor shall establish, there shall be a special court of record to be known as the juvenile court. On July 1, 1957, and each six (6) years thereafter the commission shall appoint for each district a judge of the juvenile court in accordance with the provision of this act. Each such judge shall be a member of the Utah State Bar in good standing and shall be chosen because of his special qualifications for juvenile court work and without regard to political affiliation and shall be chosen as provided hereinafter, and shall hold office for a term of six years, and until his successor is appointed and qualified; *provided,* that the judge may be removed by the commission for cause. The salaries of such judges shall be fixed by the commission of public welfare according to standards to be established by the department of finance. No juvenile judges salary may be reduced during the term of office for which he has been appointed.

There shall be enacted a new section to be known as Sec. 55-3-1,

Section 2. Section Enacted.
Utah Code Annotated 1953, which shall read as follows:

55–10–3.1. List of Recommended Qualifications to be Established — Reappointment — Existing Term Not Affected.

Upon the effective date of this act the department of public welfare shall establish a list of recommended qualifications for the office of juvenile judge.

From and after the effective date of this act appointments to fill vacancies in judgeships shall be made considering such recommendations qualifications; *provided,* that upon the expiration of the term of any judge, the incumbent judge shall have preference for appointment if, in the judgment of the commission of public welfare, he is performing the duties of his office in a satisfactory manner.

This act shall not be construed to diminish the term for which any judge shall have been appointed and which he is currently serving.

Approved March 18, 1957.

REGISTRATION DEPARTMENT

CHAPTER 114

S. B. No. 35. (Passed February 21, 1957. In effect May 14, 1957.)

POLICY FOR LEGISLATION REGULATING PROFESSIONS

An Act Defining a Legislative Policy for the State of Utah in Determining the Need for Regulatory Legislation Relating to Professions, Trades and Occupations, to be Known as Section 58-1-1.1, Utah Code Annotated 1953.

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

Section 1. Section Enacted.

Sec. 58-1-1.1, Utah Code Annotated 1953, is enacted to read as follows:

58–1–1.1. Declaration of Policy.

The right to engage in any lawful profession, trade or occupation is an inherent right and such right shall not be impaired through state regulation unless the interests of the people of the state generally, as distinguished from those of a particular class, require such regulation and state regulation is the most effective and equitable means of providing the necessary protection to the people of the state. It is further declared that the relative degree of hazard to the public health, safety or welfare which may result from an unregulated profession, trade or occupation shall be supported by adequate experience and research. Such research shall include, among other things:

1. That the practitioner performs a service for individuals which may directly result in a detrimental effect upon the public health, safety or welfare.

2. The view of the appropriate department concerning the proposed legislation and the recommendations and criticism submitted by the department.

3. The view of a substantial portion of the people who do not practice these particular professions, trades or occupations.

4. The number of state which have similar regulatory professions as those proposed.

5. The view of those who shall be subject to the proposed regulation.

6. That there is sufficient demand for the service is required by a substantial portion of the population.

7. That the profession, trade or occupation requires high standards of public responsibility, character, and performance of each individual engaged in such profession, trade or occupation and is so indicated by established and published codes of ethics.

8. That the profession, trade or occupation requires such skill that the public generally is not qualified to select competent practitioners without some visible assurance that he has met minimum qualifications.

9. That professional, trade or occupational associations do not adequately protect the public from incompetent, unscrupulous or irresponsible members of the profession, trade or occupation.

10. That the services of the profession, trade or occupation must be assured the public as a paramount consideration, regardless of cost.

11. That those laws which pertain to public health, safety and welfare generally are ineffective or inadequate. The characteristics of the profession, trade or occupation make it impractical or impossible to prohibit those practices of the profession, trade or occupation which are detrimental to the public health, safety or welfare.

Approved March 5, 1957.

CHAPTER 115

H. B. No. 113. (Passed March 13, 1957. In effect May 14, 1957.)

CONTRACTORS REGULATIONS

An Act Relating to the Contracting Business; Providing for the Examination, Licensing, and Classifying of Contractors; Providing for an Administrator of the Department of Contractors and Prescribing His Powers and Duties; Providing for an Advisory Board to the Department of Contractors and Prescribing Its Powers and Duties; Fixing License Fees; Providing for the Issuance, Suspension, or Revocation of Licenses; Providing for Appeal in the Event of Suspension or Revocation of Licenses; Prescribing Penalties for Violation of the Act; Amending Section 58-1-5, Utah Code Annotated 1953, as Amended by Chapters 33, 95, 96, 97, 105, Laws of Utah 1953; and Repealing Title 58, Chapter 6, Utah Code Annotated 1953, as Amended by Chapter 98, Laws of Utah 1953, Relating to the Regulation of Contractors.

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

Section 1. Contractor License Required.

It shall be unlawful for any person, firm, copartnership, corporation, association, or other organization, or any combination of any thereof, to engage in the business or act in the capacity of contractor within this state without having a license therefor as herein provided, unless such person, firm, copartnership, corporation, association, or other organization is particularly exempted as provided in this act. Evidence of the securing of any construction or building permit from a governmental agency, or the employment of any person on a construction project, or the offering of any bid to do the work of a contractor as herein defined, shall be accepted in any court of the State of Utah as prima facie evidence of engaging in the business or acting in the capacity of a contractor.

Section 2. Exceptions.

This act shall not apply to:

(1) An authorized representative or representatives of the United States government, the State of Utah, or any county, incorporated city or town, irrigation district, reclamation district, or other municipal or political corporation or subdivsion of this state;

(2) Any construction or operation incidental to the construction and repair of irrigation and drainage ditches of regularly constituted

irrigation districts and reclamation districts, or to farming, dairying, agriculture, viticulture, horticulture or stock or poultry raising, metal and coal mining, quarries, sand and gravel excavations, well drilling, hauling and lumbering;

(Trustees of an express trust, or officers of a court, providing they are acting within the terms of their trust or office, respectively.

(4) Public utilities operating under the regulations of the public utilities commission on construction work incidental to their own business.

(5) Sole owners of property building structures thereon for their own use;

(6) Any work or operation on one undertaking or project by contractor or contracts performed directly or indirectly by one contractor, the aggregate contract price for which, for labor, materials and all other items is less than one thousand dollars, such work or operations being considered as of a casual, minor or inconsequential nature.

Section 3. Definitions.

The following words and phrases, when used in this act, shall, for the purpose of this act, have the meaning respectively ascribed as follows, to-wit:

(1) Administrator: The administrator of the department of contractors appointed by the commission of business regulations as herein provided.

(2) Advisory Board: The contractors advisory board as herein created.

(3) Contractor: Any person, firm, copartnership, corporation, association, or other organization, or any combination of any thereof, who for a fixed sum, price, fee, percentage or other compensation other than wages, undertakes with another for the construction, alteration, repair, addition to or improvement of any building, highway, road, railroad, excavation or other structure, project, development or improvement, other than to personality or any part thereof; *provided*, that the term contractor, as used in this act, shall include anyone who builds more than one structure on his own property during any one year for the purpose of sale and shall include subcontractor, but shall not include anyone who merely furnishes materials or supplies without fabricating the same into, or consuming the same in the performance of the work of the contractors as herein defined.

(4) Department: Department of Contractors.

(5) Person: Every natural person, firm, copartnership, association or corporation.

Section 4. Contractors' Department to be Under Supervision of Commission of Business Regulation — Administrator to be Appointed — Salary — Qualifications.

The department of contractors shall be under the supervision and control of the commission of business regulation. The commission, with the approval of the Governor, shall appoint the administrator of the department of contractors who shall serve at the pleasure of the commission. His salary shall be fixed by the commission in accordance with standards adopted by the department of finance. He shall

qualify by taking the constitutional oath of office and giving a bond to the state in such amount and in such form as shall be prescribed by the department of finance, conditioned on the faithful performance of his duties. The premiums on such bond shall be paid by the state.

Section 5. Administration of Act.

The administrator, acting under the direction and supervision of the commission of business regulation, and with the advice and counsel of the advisory board, is hereby charged with the responsibility of administering this act, and for that purpose the administrator shall have the following powers and duties:

(1) From time to time to promulgate, amend, and repeal such reasonable rules and regulations, not inconsistent with this act and the laws of the State of Utah, as he shall deem necessary to carry out the purposes of this act.

(2) To employ, subject to the laws of the state of Utah, such clerks, deputies, and assistants as he may consider necessary to discharge the duties imposed upon him by this act and to designate the duties of such clerks, deputies, and assistants.

(3) To issue, and, for reasonable cause shown, to refuse to issue to any applicant therefor, any license authorized by this act, subject to its provisions.

(4) To revoke, or to suspend, in accordance with the provisions of this act and on such terms and conditions and for such periods of time as to the administrator shall appear fair and just, any license or licenses issued pursuant to this act.

(5) He may, upon his own motion, and he shall upon the sworn complaint of any person investigate any suspected or alleged violation by any licensee hereunder of any of the provisions of this act or of any rule or regulation promulgated by the administrator under the authority herein conferred upon him.

(6) To prescribe forms, subject to the approval of the attorney general, to be used for applications for licenses under this act, and to require of such applicants such information touching on and concerning the applicant's fitness to be licensed hereunder as he may consider necessary.

(7) To adopt a seal with the words "Administrator of Department of Contractors, State of Utah," and such other devices as he may desire engraved thereon, by which he shall authenticate the acts of his office.

(8) To provide for regular meetings of the advisory board, to be held not less frequently than quarter-annually, and from time to time to call special meetings thereof; *provided,* that notices of all regular and special meetings of the advisory board shall by the administrator be mailed to all members thereof at the last known address of each, not less than five days prior to the date on which such meetings shall be held.

(9) To maintain a complete and adequately indexed record of all applications and all licenses issued and renewed under this act, and all suspensions, revocations, and cancellations thereof.

(10) To classify specialty contractors into separate classifications common in the trade and license each classification separately.

Section 6. Advisory Board Created — Membership — Selection — Quorum.

There is hereby created an advisory board to consist of five members to be appointed by the governor as herein provided, which board shall assist and advise the administrator in the administration and enforcement of this act and shall prepare examinations and shall from time to time review them for the purpose of assisting the administrator in qualifying applicants for licenses in accordance with the provisions of this act. Of the members first appointed the term of two shall expire July 1, 1958, and the term of two shall expire July 1, 1959, and the term of one shall expire July 1, 1960. Their successors shall be appointed for terms of three years each. Each advisory board member shall hold office until his successor is appointed and qualified. One member of the advisory board shall be selected from among licensed general engineering contractors; two members shall be selected from among licensed general building contractors, one of whom shall be a home builder; one member shall be selected from among licensed specialty contractors; and one member shall be selected who is not directly or indirectly connected with the contracting business. The members of the advisory board shall be entitled to be compensated at the rate of $15.00 per day for the days actually attending meetings and carrying on official work of the advisory board, but in no event shall they be entitled to or receive more than twelve days pay in any one fiscal year. They shall also be entitled to their reasonable traveling expenses incurred in the performance of their duties. All of said payments shall be paid from the department of contractors fund, herein created, as a part of the expense of administering this act. A majority of the members of the advisory board shall constitute a quorum, which quorum, at any meeting of the board duly called by the administrator, shall have full and complete power to act upon and resolve in the name of the advisory board any matter, thing or question referred to it by the administrator, or which by reason of any provision of this act it has power to determine.

Section 7. Authenticated Copies of Records as Evidence.

Copies of all records and papers in the office of the administrator, duly authorized under the hand and seal of the administrator, shall be received in evidence in all cases equally and with like effect as the original thereof.

Section 8. Attorney General to Advise Board.

The attorney general of the state of Utah shall represent the administrator and the advisory board, and shall give opinions on all questions of law relating to the interpretation of this act or raising out of the administration of this act or arising out of the administration thereof, and shall appear for and in behalf of the administrator or the board in all actions brought by or against the administrator or board, whether under the provisions of this act or otherwise.

Section 9. Classes of Licenses.

(1) Licenses issued under the provisions of this act shall be of the following classes:

(a) General Engineering Contractor's License. A general engineering contractor is a contractor whose principal contracting business is in connection with fixed works for any or all of the following divisions or subjcets: Irrigation, drainage, highways, tunnels, airports, and airways, sewerage and bridges.

(b) General Building Contractor's License. A general building contractor is a contractor whose principal contracting business is in connection with any structure built, being built, or to be built for the support, shelter and enclosure of persons, animals, chattels or moveable property of any kind requiring in its construction the use of more than two unrelated building trades or crafts or to do or superintend the whole or any part thereof, but does not include anyone who merely furnishes materials or supplies without fabricating them into or consuming them in the performance of the work of the general building contractor.

(c) Specialty Contractor's License. A specialty contractor is a contractor whose operations as such are the performance of construction work requiring special skill and whose principal contracting business involves the use of specialized building trades or crafts. The administrator shall classify specialty contractors into such classifications as are common in the trade and a separate license shall be required for each such classification of specialty contractor.

(2) An applicant may apply for and be issued a license in more than one classification provided he meets the qualifications prescribed by the administrator for each classification applied for. Separate applications shall be required and separate license fees shall be charged for each classification in which a license is issued.

(3) Nothing in this act shall prohibit a specialty contractor from taking and executing a contract involving the use of two or more crafts or trades if the performance of the work in the crafts or trades other than those in which he is licensed is incidental to the performance of work in the craft for which the specialty contractor is licensed.

Section 10. Requirements to Obtain License.

(1) No contractor's license shall be issued under this act except by direction of the administrator. The administrator shall investigate classify, and qualify applicants for licenses by written or oral examination or both.

(2) To obtain a license an applicant shall submit to the administrator a duly verified application made on a form prescribed by the administrator. The applicant shall specify in said application the classification of license which is being applied for.

(3) The administrator shall require the applicant to show such a degree of experience, financial responsibility, and such general knowledge of the building, safety and health laws of the state, and of the rudimentary principles of the contracting business as the administrator shall deem necessary for the safety and protection of the public.

(4) At the time of filing the application the applicant shall deliver the proper application fee and also the requisite bond as provided for in this act.

(5) The administrator shall have the power to refuse to issue a license to any applicant who fails to meet the requirements and qualifications required by this act and by the rules and regulations prescribed by the administrator pursuant to this act.

Section 11. Fees.

To pay the expenses of maintaining administrator's office and of administering and enforcing this act the administrator shall collect fees as follows:

(a) Application fee for an original contractor's license—$50.00.

(b) Annual renewal fee for a contractor's license—$15.00.

In the event any applicant who applies prior to the issuance of such license, one-half of the application fee which was paid shall be refunded to the applicant.

Section 12. Deposit of Fees With State Treasurer.

All fees collected by the administrator hereunder shall be paid over to the state treasurer who shall credit the same to the administrator of the department of contractors' fund, which is hereby created. The expenses of said department and the expenses incurred in enforcing and administering this act shall be paid from said fund. Warrants shall be drawn as provided by law against said fund upon vouchers issued and signed by the administrator. All moneys in excess of ten thousand dollars ($10,000.00) remaining in said fund at the end of any biennial fiscal period for licenses issued by the administrator covering any part of said biennial fiscal period shall be transferred to the general fund.

Section 13. Expiration or Lapse of Existing Licenses — New Licenses.

(1) All licenses issued under the provisions of this act, unless sooner suspended or revoked as herein provided, shall elapse and expire on December 31 of each year.

(2) The administrator shall, at least thirty days prior to such expiration date, notify each licensed contractor of such expiration. Such notice shall be given by mail addressed to each contractor's last known address, and such notice shall enclose an application form for a renewal.

(3) An application for renewal of an existing license, on a form prescribed by the administrator, accompanied by a fee as provided for in this act, filed with the administrator prior to the expiration date, shall authorize operations as a contractor by such licensee until actual issuance of such renewal license for the ensuing year. All applications for renewal of licenses shall be filed with the administrator not later than December 31 of each year. Upon failure to so file, such licenses shall be renewed only upon the payment of double the regular renewal fee. Any licensee who fails to renew such a lapsed license within six months must thereafter apply for and receive a new license as provided herein before he may do business as a contractor.

(4) All licensed contractors in the state as of the effective date of this act shall be entitled to continue the business of contracting upon complying with the provisions of this act relating to the filing of renewal applications, fees, as herein provided.

Section 14. Investigations by Administrator — Revocation of License — Grounds.

The administrator may upon his own motion, and shall upon the verified complaint in writing of any person, investigate the acts of any contractor within the state, and he shall have the power to temporarily suspend or permanently revoke any license issued hereunder if the contractor, while a licensee hereunder, is guilty of one or more of the following acts or ommissions:

(1) Abandonment of any contract without legal excuse;

(2) Division or completion of a specific contract under this act, or for a specified purpose in the prosecution or completion of any contract, and their application or use for any other contract, obligation, or purpose with intent to defraud or deceive creditors or the owners;

(3) Fraudulent departure from, or disregard of, plans of specifications in any material respect, without consent of the owner or his duly authorized representative; or the doing of any fraudulent act by the licensee as a contractor in consequence of which another is substantially injured;

(4) Willful and deliberate disregard and violation of the building code of the state, or of any political subdivision thereof, or of safety laws and regulations of the state.

(5) Willful and deliberate violation or disregard of the provisions of this act or the rules and regulations of the administrator.

Section 15. Notice to be Given Prior to Refusal to License or Revocation of License — Right to Answer and Show Cause — Failure to Answer — Effect — Hearing.

Before the administrator shall refuse to issue to any applicant therefor any license provided for under this act, and before revoking or suspending any license issued by him hereunder, he shall give such applicant or licensee, as the case may be, written notice of the action which the administrator contemplates taking with respect to such application or license which shall provide that on or before a day certain, not less than twenty days from the date on which such written notice shall be duly served, such applicant or licensee shall show cause, if any he has, in writing duly verified and filed with the administrator, why such contemplated action should not be taken. The notice to the applicant or licensee that the administrator contemplates refusing to issue the license applied for or that he contemplates revoking or suspending a license duly issued by him shall have attached thereto a complete statement of the facts upon which the administrator bases his contemplated action, duly signed by the administrator or a deputy of the administrator in the name of the administrator.

Failure of the applicant or licensee to answer shall be deemed an admission by him of the truth of the facts or conduct alleged in the notice and thereupon the administrator shall have power forthwith to deny, suspend or revoke the license as the case may be. Upon the receipt of such written answer from the applicant or licensee, the administrator shall fix a day certain, not less than fifteen days nor more than thirty days from the date on which he received said written answer, when he will hear evidence and argument in support thereof and shall give written notice of the date and place of hearing to the applicant or

licensee, as hereinafter provided, not less than ten days prior to the date fixed for such hearing. A stenographic record of all proceedings had at the hearing shall be made and thereafter preserved pending final disposition of the matter.

Upon written request therefor filed with the administrator not less than five (5) days prior to the date fixed for such hearing, the applicant or licensee may require that the hearing be before the commission of business regulation rather than before the administrator. The administrator may request the attendance of the advisory board or a representative panel thereof at the hearing whether it is held before the commission of business regulation or before the administrator.

The notices provided to be given to an applicant for a license, or a licensee, shall be served by the administrator or one of his deputies or employees delivering such notice to the applicant or licensee personally, or by the administrator or one of his deputies for him, mailing such notice by certified or registered mail: (a) to the applicant for (b) to a licensed contractor at the last known address of the principal place of business of such contractor. The date on which such notice shall be deemed to have been served for purposes of computing time, as in this act is *provided,* shall be the date on which such notice is delivered to the applicant or licensee personally, if served by delivery as herein *provided,* or the date on which such notice is mailed, if service thereof is by mailing.

Section 16. Preparation and Conduct of Hearing.

In the preparation and conduct of such hearings, the administrator shall have the power to require the attendance and testimony of any witness and the production of any papers or books and may sign and issue subpoenas therefor and administer oaths and examine witnesses and take any evidence he deems pertinent to the determination of the matter, and any witnesses so subpoenaed shall be entitled to the same fees and mileage as prescribed by law in judicial proceedings in the district courts of this state in civil actions, but the payment of such fees and mileage must be out of and kept within the limits of the funds created from such license fees; and the party against whom such matter may be pending shall have the right to obtain from the administrator subpoenas for any witnesses which he may desire at such hearing and depositions may be taken as in civil court cases in the district courts; *provided, however,* that any information obtained from the books and records of the person complained against may not be used against the person complained against as the basis for a criminal prosecution under the laws of this state.

Section 17. Findings of Administrator.

The administrator (or the commission of business regulation, if the hearing is held before it) shall state in writing officially signed by him his findings with appropriate references to the stenographic report of the hearing, if any, and his determination and order in the matter and serve copies thereof upon the applicant or licensee by certified or registered mail in the same manner as provided for service of notice under Section 15 of this act. Should the aggrieved applicant or licensee desire to appeal from such determination and order, he

shall, within thirty days from the date thereof file an appeal bond with the administrator in the sum of one hundred dollars ($100.00) conditioned upon the payment of costs and the prosecution of such appeal without delay, and shall file an original action in the district court in and for the county where the applicant or licensee has his residence or principal place of business in this state seeking review of said determination and order. The filing of any such original action shall not operate as a supersedeas, however, and pending a final determination of the matter the applicant or licensee affected by said determination and order shall be bound thereby.

Section 18. Violation — Misdemeanor.

Any person, firm, co-partnership, corporation, association, or other organization, acting in the capacity of contractor within the meaning of this act, without a license as herein provided shall be guilty of a misdemeanor.

Section 19. Constitutionality.

If any provision of this act, or the application of any provision to any person or circumstance, is held invalid, the remainder of this act shall not be affected thereby.

Section 20. Chapter Repealed.

Title 58, Chapter 6, Sections 1 to 10, both inclusive, Utah Code annotated 1953, as amended by Chapter 98, Laws of Utah 1953, is hereby repealed.

Section 21. Section Amended.

Section 58-1-5, Utah Code Annotated 1953, as amended by Chapters 33, 95, 96, 97, and 105, Laws of Utah 1953, is hereby amended to read as follows:

58–1–5. Exercise of Department Functions by Director — Committees for Trades, Professions and Occupations — Number and Qualifications of Members.

The functions of the department of registration shall be exercised by the director of registration under the supervision of the commission of the department of business regulation and, when so provided, in collaboration with and with the assistance of representative committees of the several professions, trades and occupations as follows:

(1) For accountants, a committee of three competent public accountants.

(2) For architects, a committee of three architects.

(3) For barbers, a committee of three persons, citizens of the United States who shall have practiced barbering for at least five years.

(4) For chiropody, a committee of three members.

(5) For chiropractors, a committee of three chiropractors; chiropractic is defined as the science of palpating and adjusting the articulation of the spinal column by the hands only.

(6) For dentists, a committee of five persons; but no member of such committee shall be a member of the faculty of any dental college or dental department of any medical college or have a financial interest in any such college.

(7) For funeral directors, embalmers, and apprentice embalmers, a committee of three licensed funeral directors or embalmers; *provided, however,* that each member of such committee shall have had a minimum of five years' experience in the preparation and disposition of dead human bodies, and in the practice of embalming, immediately preceding their appointment.

(8) For beauty culturists and electrologists, a committee as provided under the provisions of H. B. No. 142 of the 32nd Legislature of the State of Utah.

(9) For practitioners of medicine and surgery in all branches thereof, and for the practice of obstetrics only, a committee of five persons each of whom shall be a licensed practitioner of medicine and surgery in all branches thereof in this state and a graduate of a chartered medical college of recognized standing.

(10) For practitioners in the treatment of human ailments without the use of medicine and surgery, except such practitioners as are specifically provided for herein, a committee of five members of which to be designated by the director shall be members of the committee appointed to examine applicants to practice medicine and surgery in all branches thereof, and three other persons from the particular school for treating human ailments for which the applicant desires a license.

(11) For practitioners of naturopathy, a committee of three members, each of whom shall be a graduate of a school of naturopathy of standing recognized by the department of registration.

(12 For graduate registered nurses and licensed practical nurses a committee of four registered nurses and two licensed practical nurses and one registered nurse who is either an instructor in practical nursing or a director of a practical nurse school. The licensed practical nurses shall be exempt from the five year license requirement set forth in section 58-1-6, Utah Code Annotated 1953, until July 1, 1954.

(13) For osteopathic physicians or osteopathic physicians and surgeons, a committee of three members each of whom shall be a graduate of a chartered college of osteopathy of recognized standing.

(14) For optometrists, a committee of three persons.

(15) For pharmacists, a committee of five pharmacists to be designated as Utah state board of pharmacy.

(16) For veterinarians, a committee of three veterinarians each of whom shall be a graduate of a college or university of standing recognized by the department of registration.

(17) For plumbers, a committee of five persons.

(18) For sanitarians, a committee of five persons, each of whom shall have had a minimum of five years experience as a sanitarian. Each committee member, shall be exempt from the five year license requirement set forth in section 58-1-6, Utah Code Annotated 1953, until July 1, 1957.

(19) For persons engaged in, conducting, operating or maintaining in any home, residence or domiciliary facility the business of a nursing home, maternity home, the refuge care of (or) maintenance of the needy, the care of the aged or infirm, for two or more non-related individuals, a committee of five certified operators, each of whom shall have had a minimum of five years' experience as a home operator. Each committee member shall be exempt from the five year license requirement set forth in section 58-1-6 until July 1, 1959.

Approved March 22, 1957.

CHAPTER 116

S. B. No. 133. (Passed March, 1957. In effect May 14, 1957.)

UNIFORM NARCOTICS DRUG ACT

An Act Enacting Section 58-13a-44, Utah Code Annotated 1953, Relating to the Penalties for Violation of the Uniform Narcotic Drug Act; and Repealing Section 58-13a-44, Utah Code Annotated 1953, as Enacted by Chapter 94, Laws of Utah 1953, and Amended by Chapter 114, Laws of Utah 1955, Relating to Penalties.

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

Section 1. Section Enacted.

Sec. 58-13a-44, Utah Code Annotated 1953, is enacted to read as follows:

58–13a–44. Violation of Certain Sections — Misdemeanor — Felony — Punishment.

Any person violating Section 58-13a-8, 58-13a-16, or 58-13a-28 of this chapter shall be guilty of a misdemeanor. Any person violating any other provision of this chapter shall, upon conviction, be punished for the first offense by a fine of not less than $1,000.00 or by imprisonment in the Utah State Prison for not exceeding five years, or by both such fine and imprisonment, and for any subsequent violation of this act not specifically designated hereinabove as a misdemeanor by a fine of not less than $5,000.00, or by imprisonment in the Utah State Prison for not less than five years or more than life at the discretion of the court, or by both such fine and imprisonment.

Section 2. Section Repealed.

Sec. 58-13a-44, Utah Code Annotated 1953; as enacted by Chapter 94, Laws of Utah 1953, and amended by Chapter 114 Laws of Utah 1955, is repealed.

Approved March 19, 1957.

CHAPTER 117

H. B. No. 139. (Passed March 11, 1957. In effect May 14, 1957.)

PHARMACY REGULATIONS

An Act Amending Sections 58-17-2, 58-17-6, 58-17-7, 58-17-8, 58-17-9, 58-17-10, 58-17-11, 58-17-12, Utah Code Annotated 1953; Repealing Sections 58-17-14, 58-17-23, 58-17-25, 58-17-26 and 58-17-27, Utah Code Annotated 1953; and Enacting New Sections 58-17-2.5, 58-17-2.6, 58-17-2.7, 58-17-2.8, 58-17-2.9, 58-17-6.5, 58-17-8.5, 58-17-8.6, 58-17-8.7, 58-17-9.5, 58-17-10.5, 58-17-10.6, 58-17-14.5, 58-17-14.6, 58-17-14.7, 58-17-14.8, 58-17-14.9, 58-17-14.10, 58-17-14.11, 58-17-25 and 58-17-26 Utah Code Annotated 1953; Relating to the Practice of Pharmacy to be Administered by the Department of Registration in Conjunction with the Board of Pharmacy; Providing for Licenses to Practice Pharmacy; Certificates of Registration to Become a Pharmacy Interne, Permits to Operate Wholesale, Retail or Manufacturing Pharmacy Business, and Providing Fees Therefor; Defining a Pharmacy; Stating the Conditions of Advertising Drugs; Requiring that Certain Drugs be Dispensed by a Registered Pharmacist; Requiring Services of a Registered Pharmacist in Wholesale, Manufacturing and Retail Drug Businesses; Permitting Sale of Dietary Foods and Supplements and Packaged Drugs Without Restriction; Providing Requirements for Writing, Filling and Labeling Prescriptions; Selling Certain Drugs Without Prescriptions; and Providing for Penalties.

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

Section 1. Section Amended.
Section 58-17-2 Utah Code Annotated 1953 is amended to read as follows:

58–17–2. Requirements for Applicants to Practice Pharmacy.
Every applicant for a license to practice pharmacy must:
(1) Produce satisfactory evidence of good moral character.
(2) Be a graduate of a high school requiring attendance through four years, being equal to fifteen units, or pass an examination showing qualifications equal to those of a high school graduate.
(3) Be a graduate of a school or college of pharmacy or department of pharmacy of a university recognized by the Utah State Board of Pharmacy.
(4) Have had at least one year of service and experience as an interne in a retail pharmacy under the personal supervision of a licensed pharmacist.
(5) Pass a satisfactory examination under the rules and regulations of the department of registration.

Section 2. Section Enacted.
Section 58-17-2.5 Utah Code Annotated 1953, is enacted to read as follows:

58–17–2.5. Service and Experience Defined.
Service and experience in a retail pharmacy under the personal supervision of a registered pharmacist as required in section 58-17-2 shall consist principally of the selling of drugs, compounding physicians' prescriptions, preparing pharmaceutical preparations and keeping records and making reports required under state and federal statutes.

Section 3. Section Enacted.
Section 58-17-2.6, Utah Code Annotated 1953, is enacted to read as follows:

58–17–2.6. What Constitutes Year of Service and Experience.
A year of service and experience in a retail pharmacy as required in section 58-17-2 shall consist of not less than fifty calendar weeks of forty hours per week, at such times and under such conditions as may be provided by the laws of Utah and by regulations of the Utah State Board of Pharmacy.

Section 4. Section Enacted.

Section 58-17-2.7 Utah Code Annotated 1953, is enacted to read as follows:

58–17–2.7. Requirements for Applicant as Pharmacy Interne.
Every applicant for a certificate of registration to become a pharmacy interne shall:
(1) Possess the preliminary educational qualifications required by the Utah State Board of Pharmacy, which shall be not less than completion of pre-professional college training and one quarter of fifteen hours or more of training in professional pharmacy courses, or the equivalent thereof, completed in a college of pharmacy or department of pharmacy of a university recognized by the Utah State Board of Pharmacy.
(2) Apply to the department of registration for a certificate of registration as a pharmacy interne.
(3) Pay a fee required by the department of registration not to exceed $3.00. The department of registration shall issue a certificate of registration to any qualified applicant upon payment of the required fee which shall accompany the application for registration as a pharmacy interne.

Section 5. Section Enacted.

Section 58-17-2.8, Utah Code Annotated 1953, is enacted to read as follows:

58–17–2.8. Proof of Qualifications.
Proof of the qualifications for any applicant for a certificate of registration to become a pharmacy interne or for a license to practice the profession of pharmacy shall be made to the satisfaction of the Utah State Board of Pharmacy and shall be substantiated by such affidavits or other evidence as may be required by the board.

Section 6. Section Enacted.
Section 58-17-2.9, Utah Code Annotated 1953, is enacted to read as follows:

58–17–2.9. Pharmacy Interne to Act Only Under Personal Supervision of Registered Pharmacist.
A certificated pharmacy interne may be employed in a retail pharmacy and shall receive instruction in the practice of pharmacy, and such internes may compound, dispense and sell drugs, medicines or poisons only in the presence and under the immediate personal supervision of a registered pharmacist, who shall be either the proprieter or in the actual employ of the proprietor.

Section 7. Section Amended.
Section 58-17-6, Utah Code Annotated 1953, is amended to read as follows:

58–17–6. Statement Required Prior to Commencing Business.
Before operating, conducting or continuing any wholesale, retail or manufacturing pharmacy, drug store, or drug business within the state of Utah the owner or operator shall file with the department of registration an application for registration containing a verified statement setting forth the name of the owner of the business or establishment, whether the owner is an individual, co-partnership or corporation, and, if a corporation, the state of its incorporation, the location of the business or establishment and the name under which the business is transacted; *provided, however,* if an individual, copartnership or corporation owns or operates more than one store or establishment either in the same city or town or in different cities or towns in the state, the owner or operator may include in one application the statement of facts as to the several stores or establishments.

Section 8. Section Enacted.
Section 58-17-6.5, Utah Code Annotated 1953, is enacted to read as follows:

58–17–6.5. Forms for Applications — Issuance of Permit.
Every application made pursuant to section 58-17-6 shall be made on a form furnished by the department of registration. Upon the approval of such application by the department of registration and the paying of the fee required by law the director shall issue a permit to conduct such business. The permit shall be renewed annually on or before January 2nd of each year and shall not be transferable. No person shall conduct such a business without a permit.

Section 9. Section Amended.
Section 58-17-7, Utah Code Annotated 1953, is amended to read as follows:

58–17–7. Statement of Change of Name — Ownership.
Whenever there is any change in name, ownership or location of any wholesale, retail or manufacturing pharmacy, drug store or business which has been registered as required herein it shall be the duty of the owner or operator thereof within ten days after such change to

file with the department of registration a verified statement showing the new name, ownership and location of the pharmacy, drug store or business.

Section 10. Section Amended.
Section 58-17-8, Utah Code Annotated 1953, is amended to read as follows:

58–17–8. Filing Fee.
The department of registration shall collect upon the filing of each such application pursuant to section 58-17-6 the sum of $5. A fee in the sum of $5 shall be paid upon the annual renewal of a permit on or before January 2nd of each year.

Section 11. Section Enacted.
Section 58-17-8.5, Utah Code Annotated 1953, is enacted to read as follows:

58–17–8.5. Definitions.
"Wholesale pharmacy, drug store, or drug business" as used in this chapter means and includes every person engaged in the business of jobber or wholesale merchant, selling, dispensing or vending any drug or medicine other than those enumerated in section 58-17-14.5 for resale which he has not derived, produced, manufactured or compounded.

Section 12. Section Enacted.
Section 58-17-8.6, Utah Code Annotated 1953, is enacted to read as follows:

58–17–8.6. Definitions.
"Retail pharmacy, drug store, or drug business," as used in this chapter means and includes every person engaged in the business of selling for consumption a drug or medicine other than those enumerated in section 58-17-14.5.

Section 13. Section Enacted.
Section 58-17-8.7, Utah Code Annotated 1953, is enacted to read as follows:

58–17–8.7. Definitions.
"Manufacturing pharmacy, drug store or drug business" as used in this chapter means and includes every person engaged in the business of preparing, compounding, manufacturing or repackaging of any drug or medicine other than those enumerated in section 58-17-14.5. No drug business registered by the department of registration as a retailer shall be required to have an additional license as a manufacturer.

Section 14. Section Amended.
Section 58-17-9, Utah Code Annotated 1953, is amended to read as follows:

58–17–9. "Drug Stores and Pharmacies" Defined — Certain Dispensers Not Deemed "Drug Stores" or "Pharmacies."

Every place in which drugs, medicines or poisons, except those items specified in Section 58-17-14.5, are compounded, retailed, dispensed or displayed for sale at retail, or in which physician's prescriptions are compounded, or which has upon it or in it a sign of words "drugs," "drug store," "drug shop," "pharmacy," "apothecary," "druggist," "prescriptions," or any combination of such words or title or description of like import or any other term designed to take the place thereof, shall be deemed to be a pharmacy or drug store, except that any establishment selling drugs and supplies permitted under section 58-17-14.5 may display inside signs bearing the words "package drugs" or "drug sundries" or both, and shall not be deemed to be a pharmacy or drug store by reason of such display.

Section 15. Section Enacted.

Section 58-17-9.5, Utah Code Annotated, is enacted to read as follows:

58–17–9.5. Advertising and Sale of Certain Drug Articles Excepted from Definition of "Drug Store" or "Pharmacy."

No store or shop selling any of those articles specified in section 58-17-14.5 shall be prevented from advertising the drug articles it lawfully has for sale, and shall not be a pharmacy or drug store as defined in section 58-17-9 by reason of such advertising, *provided* the designating words reserved to drug stores by section 58-17-9 are not used and the words "packaged drugs" and "drug sundries" are displayed on inside signs only.

Section 16. Section Amended.

Section 58-17-10, Utah Code Annotated, is amended to read as follows:

58–17–10. Registered Pharmacist Must be in Attendance — Exceptions.

It shall be unlawful for any person other than a registered pharmacist or a certificated pharmacy interne in the presence and under the immediate personal supervision of a registered pharmacist to dispense or compound any prescription of a medical practitioner, or to manufacture or to compound, sell or dispense drugs, medicines, poisons or chemicals or other substances administered to human beings for their therapeutic effect, except those articles specified in section 58-17-14.5 and insecticides, fungicides and other poisons intended for use in the destruction of animal and vegetable pests, or to open or conduct any wholesale, manufacturing or retail pharamacy for wholesaling, jobbing, manufacturing, compounding or dispensing drugs, medicines or poisons, except as herein otherwise provided, unless such person shall employ and place a registered pharmacist in supervision of all dispensing, compounding, packaging or bottling of drugs and poisons except those specified in section 58-17-14.5 and insecticides, fungicides and other poisons intended for use in the destruction of animal and vegetable pests.

Section 17. Section Enacted.

Section 58-17-10.5, Utah Code Annotated 1953, is enacted to read as follows:

58–17–10.5. No Advertising May Designate Store or Shop a Pharmacy or Drug Store Unless Registered Pharmacist in Charge.

No store or shop shall use any words or combination of words enumerated in section 58-17-9 to designate a pharmacy or drug store in any advertisement or display unless a registered pharmacist is in charge.

Section 18. Section Enacted.

Section 58-17-10.6, Utah Code Annotated 1953, is enacted to read as follows:

58–17–10.6. Persons Excepted from Act.

Nothing herein contained shall be construed to prevent the personal administration of drugs or medicines carried or kept for emergencies by licensed physicians, dentists and veterinarians in order to supply the immediate needs of their patients.

Section 19. Section Amended.

Section 58-17-11, Utah Code Annotated 1953, is amended to read as follows:

58–17–11. No Drugs, Medicines or Poisons Other Than Defined Exceptions to be Permitted Dispensed Except by Registered Pharmacist or Pharmacy Interne.

No proprietor of a pharmacy or other person shall permit the vending of drugs, medicines or poisons except those specified in section 58-17-14.5 or permit the compounding and dispensing of physicians' prescriptions except by a registered pharmacist or a certificated pharmacy interne in the presence and under the immediate personal supervision of a registered pharmacist.

Section 20. Section Amended.

Section 58-17-12, Utah Code Annotated 1953, is amended to read as follows:

58–17–12. Proprietor Responsible for Quality of Drugs — Defined Exceptions.

The proprietors of all pharmacies shall be held responsible for the quality of all drugs and chemicals sold or dispensed at their respective places of business, except those enumerated in section 58-17-14.5.

Section 21. Section Enacted.

Section 58-17-14.5, Utah Code Annotated 1953, is enacted to read as follows:

58–17–14.5. Excepted Items Not Within Act.

Dietary foods and dietary food supplements, including vitamins and minerals or combinations thereof, sold only to supplement or fortify the diet, all packaged drugs, medicines, medical supplies, bottled or non-bulk chemicals when identified by and sold under a trade mark, trade name or other trade symbol privately owned or registered in the United States patent office, or as provided by the laws of the state of Utah, and labeled with directions for use and with the name and

address of the manufacturer or distributor, *provided* such articles meet with the requirements of the Federal Food, Drug and Cosmetic Act and the food and drug laws of the state of Utah, may be sold by grocers dealers and other vendors generally without restriction.

Section 22. Section Enacted.

Section 58-17-14.6, Utah Code Annotated 1953, is enacted to read as follows:

58–17–14.6. Excepted Items — By Whom Sold.

Grocers, dealers and other vendors generally without restriction may sell such insecticides, fungicides and other poisons as are intended for use in the destruction of animal and vegetable pests, the sale of which is not otherwise prohibited by the laws of this state, the laws of the United States or lawful regulation made pursuant thereto.

Section 23. Section Enacted.

Section 58-17-14.7, Utah Code Annotated 1953, is enacted to read as follows:

58–17–14.7. Information Required to be Given to Pharmacist on Each Prescription.

All physicians or other persons legally authorized to prescribe under the laws of this state shall indicate, on each prescription which of the following stipulations are to be followed by the pharmacist in the filling of the prescription:

(1) The prescription shall not be refilled;

(2) It may be refilled a specified number of times within a given period;

(3) It may be refilled at will during the time specified;

(4) Any other limitation upon the refilling which the physician, or other person authorized by law, may find necessary.

All physicians or other persons authorized to prescribe under the laws of this state shall indicate on each prescription, the refilling of which is specifically prohibited by state or federal law, that the prescription shall not be refilled.

Section 24. Section Enacted.

Section 58-17-14.8, Utah Code Annotated 1953, is enacted to read as follows:

58–17–14.8. Oral Prescriptions — To be Reduced to Writing and Filed.

Drugs may be dispensed by pharmacists or certificated pharmacy internes upon an oral prescription of a practitioner licensed to prescribe, *provided* such oral prescription is promptly reduced to writing and filed by the pharmacist or certificated pharmacy interne.

Section 25. Section Enacted.

Section 58-17-14.9, Utah Code Annotated 1953, is enacted to read as follows:

58–17–14.9. Pharmacist Shall Not Disregard Directions of Person Issuing Prescription.

No pharmacist shall disregard the stipulations of a physician or other person legally authorized to prescribe made pursuant to the provisions of section 58-17-14.7 or section 58-17-14.8.

Section 26. Section Enacted.

Section 58-17-14.10, Utah Code Annotated 1953, is enacted to read as follows:

58–17–14.10. Name of Dispenser to be on Label.

All drugs dispensed by filling or refilling a written or oral prescription shall bear a label containing the name and address of the dispenser, the serial number and date of the prescription or its filling, the name of the prescriber and if stated in the prescription, the name of the patient, the directions for use and cautionary statements, if any, contained in such prescription. Dispensing drugs in violation of this section shall constitute an offense.

Section 27. Section Enacted.

Section 58-17-14.11, Utah Code Annotated 1953, is enacted to read as follows:

58–17–14.11. Violation.

Any proprietor of a pharmacy or other person who shall sell, dispose of, or permit the sale or other disposition of any drug intended for use by man which under the laws of this state or the laws of the United States, or lawful regulations thereunder, has been designated as habit forming, unsafe for use except under the supervision of a practitioner licensed to administer such drugs, or otherwise limited to use under professional supervision of a practitioner licensed by law to prescribe, unless it is dispensed upon a prescription of a practitioner licensed by law to administer the same, shall be guilty of an offense.

Section 28. Sections Repealed.

Sections 58-17-14, 58-17-23, 58-17-25, 58-17-26 and 58-17-27, Utah Code Annotated 1953, are hereby repealed.

Section 29. Section Enacted.

A new section 5817-25 Utah Code Annotated 1953, is enacted to read as follows:

58–17–25. Administration — Utah State Board of Pharmacy.

It shall be the duty of the department of registration in conjunction with the Utah State Board of Pharmacy to administer and with the assistance of all peace officers within the state to enforce the provisions of this chapter.

Section 30. Section Enacted.

A new Section 58-17-26, Utah Code Annotated 1953, is enacted to read as follows:

58–17–26. Violation — Misdemeanor.

Any person who violated Section 58-17-6.5, 58-17-7, 58-17-10, 58-17-10.5, 58-17-11, 58-17-13, 58-17-14.7, 58-17-14.9, 58-17-14.10 or 58-17-14.11 shall be guilty of a misdemeanor.

Section 31. Constitutionality.

If any provision of this act, or the application of any provision to any person or circumstance, is held invalid, the remainder of this act shall not be affected thereby.

Approved March 21, 1957

REVENUE AND TAXATION

CHAPTER 118

S. B. No. 21. (Passed February 21, 1957. In effect May 14, 1957.)

PROPERTY IN INTERSTATE COMMERCE

An Act Amending Section 59-2-4, Utah Code Annotated 1953, as Amended by Chapter 119, Laws of Utah 1955, Providing for Exemption of Tax on Tangible Property Moving in Interstate Commerce, Whether or Not Moving on Through Rates.

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

Section 1. Section Amended.

Sec. 59-2-4, Utah Code Annotated 1953, as amended by Chapter 119, Laws of Utah 1955, is amended to read:

59–2–4. Property in Interstate Commerce — Exemption of Tax Whether or Not Moving on Through Rates.

All property consigned to a consignee in this state from outside this state to be forwarded to a point outside this state, which is entitled under the tariffs, rules and regulations approved by the interstate commerce commission to be forwarded at through rates from the point of origin to the point of destination, if not detained within this state for a period of more than ninety days, shall be deemed to be property moving in interstate commerce, and no such property shall be subject to taxation in this state; *provided,* that goods, wares, and merchandise, whether or not moving on through rates, shall be deemed to move in interstate commerce, and not subject to taxation in this state if not detained more than nine months where such goods, wares and merchandise are so held for assembly, manufacturing, processing, or fabricating purposes; *providing further* that personal property consigned for sale within this state must be assessed as any other personal property.

Approved March 1, 1957.

CHAPTER 119

H. B. No. 75. (Passed March 11, 1957. In effect May 14, 1957.)

BLIND PERSONS — EXEMPTION

An Act Relating to Revenue and Taxation; Amending Section 59-2-13, Utah Code Annotated 1953; Providing for Filing of Affidavits of Permanent Blindness.

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

Section 1. Section Amended.
Section 59-2-13, Utah Code Annotated 1953, is amended to read:

59–2–13. Application for Exemption — Procedure and Requirements — Permanent Blindness — No Further Applications Required.
Every person applying for such exemption must, on or before May 1st, in each year, file an application for the same with the board of county commissioners of the county in which he resides, accompanied by a statement signed by a registered opthalmologist, that he has no more than 20/200 visual acuity in the better eye corrected, or that in the case of better than 20/200 central vision there is a restriction of the field of vision in the better eye which subtends an angle of vision no greater than 20 degrees. This amount shall be allowed regardless of the amount of property owned by the person receiving the exemption. When the blindness is declared permanent by a registered ophthalmologist the original affidavit shall be kept on file in the office of the board of county commissioners and it will not be necessary for these individuals declared permanently blind to file a doctor's affidavit each year when applying for property tax exemptions. Widows and minor orphans of the blind deceased person shall be entitled to the full exemption.
Approved March 14, 1957.

CHAPTER 120

H. B. No. 12. (Passed February 26, 1957. In effect May 14, 1957.)

STATE TAX COMMISSION — POWERS AND DUTIES

An Act Amending Section 59-5-46 Utah Code Annotated 1953, Relating to a Uniform Classification of Accounts in all Taxing Units, and Enacting a New Chapter Providing for the State Tax Commission to Establish a Uniform System of Accounts for all Taxing Units, to Make Rules and Regulations Necessary to the Administration of such Accounts and to Provide for Enforcement.

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

Section 1. Section Amended.
Section 59-5-46, Utah Code Annotated 1953, is amended to read:

59–5–46. General Powers and Duties.
The powers and duties of the state tax commission are as follows:
(1) To sue and be sued in its own name.
(2) To prescribe rules and regulations not in conflict with the

Constitution and laws of this state for its own government and the transaction of its business.

(3) To prescribe such rules and regulations as it may deem necessary, not in conflict with the Constitution and laws of the state, to govern county boards and officers in the performance of any duty in connection with assessment, equalization and collection of general taxes.

(4) To prepare and enforce the use of forms in relation to the assessment of property for state or local taxation, the equalization of such assessments, the reporting of property or income for state or local taxation or for the computation of such taxes and the reporting of such information, statistics or data as the tax commission may require.

(5) To prepare and maintain from year to year a complete record of all lands subject to taxation in this state, and all machinery used in mining and all property or surface improvements upon or appurtenant to mines or mining claims.

(6) To assess annually all real, personal and mixed property which the tax commission is by the Constitution and laws of this state required to assess.

(7) To apportion the total assessment of property required by law to be assessed by the tax commission to the several counties as provided in section 59-6-1.

(8) To adjust and equalize the valuation and assessment of the taxable property among the several counties of this state for the purpose of taxation.

(9) To have and exercise general supervision over the administration of the tax laws of the state, over assessors and over county boards in the performance of their tax duties as county boards of equalization and over other county officers in the performance of their duties in connection with assessment of property and collection of taxes, to the end that all assessments of property be made relatively just and equal, at true value, and that the tax burden may be distributed without favor or discrimination.

(10) To reconvene, whenever the tax commission may deem necessary, any county board of equalization; and it may in its discretion extend the time for which any county board of equalization may sit for the equalization of assessments. The county board of equalization when thus reconvened shall transact no business except that for which it was reconvened, or such other business as the tax commission may call to its attention while in session.

(11) To confer with, advise and direct assessors and other officers charged by law with duties relating to the assessment and equalization of property for taxation and the collection of taxes, and to provide for and hold at such times and places as may be deemed necessary district or state conventions of county officers for the consideration and discussion of matters relative to taxation, uniformity of valuation, and changes in the laws relative to taxation and methods of assessment. The traveling expenses of each official called to attend and attending such convention shall be a charge against the county and paid in the same manner as other claims against the county.

(12) To outline a uniform system for the collection of taxes on personal property to be followed in all counties of the state.

(13) To direct proceedings, actions and prosecutions to enforce the laws relating to the penalties, liabilities and punishments of public officers, persons and officers or agents of corporations for failure or neglect to comply with the provisions of the statutes governing the return, assessment and taxation of property; and to cause complaints to be made against assessors, auditors and members of county boards, and other assessing, taxing or disbursing officers, to the proper court for their removal from office for official misconduct or neglect of duty.

(14) To require county attorneys and district attorneys to institute and prosecute actions and proceedings in respect to penalties, forfeitures, removals and punishments for violations of the laws in connection with the assessments and taxation of property in their respective counties and districts, and such officers must at once comply.

(15) To require individuals, partnerships, companies, associations and corporations to furnish such information as the tax commission may require concerning their capital, funded or other debt, current assets and liabilities, value of property, earnings, operating and other expenses, taxes, and all other facts which may be needful to enable the tax commission to ascertain the value and the relative burden borne by all kinds of property in the state, and to require from all state and local officers such information as may be necessary for the proper discharge of the duties of the tax commission.

(16) To examine all records, books, papers and documents relating to the valuation of property of any corporation or individual, and to subpoena witnesses to appear and give testimony and to produce records, books, papers and documents relating to any matter which the tax commission shall have authority to investigate or determine. The tax commission or any party may in any investigation cause depositions of witnesses to be taken as in civil actions. Any member of the state tax commission, its secretary, cashier, and such other officers or employees as the commission may designate, may administer oaths and affirmations in any matter or proceeding relating to the exercise of the powers and duties of the tax commission.

(17) To visit, as a board or by individual members thereof, annually, and oftener if deemed necessary, each county of the state for the investigation and direction of the work and methods of local assessors and other officials in the assessment, equalization and taxation of property, and to ascertain whether the provisions of law requiring the assessment of all property, not exempt from taxation, and the collection of taxes have been properly administered and enforced.

(18) To examine carefully into all cases where evasion or violation of the laws for assessment and taxation of property is alleged, complained of or discovered, and to ascertain wherein existing laws are defective or are improperly or negligently administered.

(19) To furnish to the governor from time to time such assistance and information as he may require.

(20) To transmit to the Governor and to each member of the Legislature a biennial report, with its recommendations as to such legislation as will correct or eliminate defects in the operation of the tax laws and will equalize the burden of taxation within the state.

(21) To correct any error in any assessment made by it at any time

before the tax is paid thereon and report such correction to the county auditor, who shall thereupon enter the same upon the assessment roll.

(22) To establish systems of public accounting in all taxing units of the state, and it may recommend accounting methods and forms for public acounts in the interest of uniformity, efficiency and economy.

(23) To perform such further duties as may be imposed upon it by law, and exercise all powers necessary in the performance of its duties.

(24) To compile and publish statistics relating to taxation in this state.

Section 2. Uniform System of Accounts to be Established.

The state tax commission shall establish a uniform system of accounts and when established it shall be followed by all taxing units within the State of Utah.

Section 3. Tax Commission to Make Rules and Regulations — Publication.

The state tax commission shall have the power to make rules and regulations directly relating to the administration of a uniform system of accounts. They shall periodically publish these rules and regulations and distribute them to all taxing units.

Section 4. Certification of List of all Taxing Units not Complying with Laws and Regulations as to Uniform Accounts — County Attorney — Duties.

The state tax commission shall certify a list of all taxing units that do not comply with the laws, rules and regulations pertaining to uniform accounts to the county attorney of the county in which such unit is located. Said county attorney shall forthwith notify the official or officials charged by law with complying therewith. If said official or officials fail to so comply within 60 days after receipt of such notice, the county attorney shall commence proceedings in district court in mandamus to require such performance.

Approved March 7, 1957.

CHAPTER 121

H. B. No. 17. (Passed February 14, 1957. In effect May 14, 1957.)

STATE TAX COMMISSION — CONVENTIONS OF COUNTY OFFICIALS

An Act Amending Section 59-5-46, Utah Code Annotated 1953, Relating to Conventions of County Assessors and Other County Officials With the State Tax Commission.

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

Section 1. Section Amended.

Sec. 59-5-46, Utah Code Annotated 1953, is amended to read:

59–5–46. Powers and Duties.

The powers and duties of the state tax commission are as follows:

(1) To sue and be sued in its own name.

(2) To prescribe rules and regulations not in conflict with the Constitution and laws of this state for its own government and the transaction of its business.

(3) To prescribe such rules and regulations as it may deem necessary, not in conflict with the Constitution and laws of the state, to govern county boards and officers in the performance of any duty in connection with assessment, equalization and collection of general taxes.

(4) To prepare and enforce the use of forms in relation to the assessment of property for state or local taxation, the equalization of such assessments, the reporting of property or income for state or local taxation or for the computation of such taxes and the reporting of such information, statistics or data as the tax commission may require.

(5) To prepare and maintain from year to year a complete record of all lands subject to taxation in this state, and all machinery used in mining and all property or surface improvements upon or appurtenant to mines or mining claims.

(6) To assess annually all real, personal and mixed property which the tax commission is by the Constitution and laws of this state required to assess.

(7) To apportion the total assessment of property required by law to be assessed by the tax commission to the several counties as provided in section 59-6-1.

(8) To adjust and equalize the valuation and assessment of the taxable property among the several counties of this state for the purpose of taxation.

(9) To have and exercise general supervision over the administration of the tax laws of the state, over assessors and over county boards in the performance of their duties as county boards of equalization and over other county officers in the performance of their duties in connection with assessment of property and collection of taxes, to the end that all assessments of property be made just and equal, at true value, and that the tax burden may be distributed without favor or discrimination.

(10) To reconvene, whenever the tax commission may deem necessary, any county board of equalization; and it may in its discretion extend the time for which any county board of equalization may sit for the equalization of assessments. The county board of equalization when thus reconvened shall transact no business except that for which it was reconvened, or such other business as the tax commission may call to its attention while in session.

(11) To confer with, advise and direct county treasurers and assessors in matters relating to the assessment and equalization of property for taxation and the collection of taxes, and to provide for and hold annually at such time and place as may be convenient a district or state convention of county assessors to consider and discuss matters relative to taxation, uniformity of valuation and changes in the law relative to taxation, and methods of assessment. Every county assessor called to attend such district or state convention shall attend at the time and place designated by the tax commission. The traveling expense of each county assessor called to attend such convention shall be a

charge against the county and paid in the same manner as other claims against the county.

(12) To confer with, advise and direct other county officers charged by law with duties relating to the assessment and equalization of property for taxation and the collection of taxes, and to provide for and hold at such times and places as may be deemed necessary district or state conventions of such officers for the consideration and discussion of matters relative to taxation, uniformity of valuation, and changes in the laws relative to taxation and methods of assessment. Such conventions may be held in connection with those provided for county assessors. The traveling expenses of each official called to attend and attending such convention shall be a charge against the county and paid in the same manner as other claims against the county.

(13) To outline a uniform system for the collection of taxes on personal property to be followed in all counties of the state.

(14) To direct proceedings, actions and prosecutions to enforce the laws relating to the penalties, liabilities and punishments of public officers, persons and officers or agents of corporations for failure or neglect to comply with the provisions of the statutes governing the return, assessment and taxation of property; and to cause complaints to be made against assessors, auditors and members of county boards, and other assessing, taxing or disbursing officers, to the proper court for their removal from office for official misconduct or neglect of duty.

(15) To require county attorneys and district attorneys to institute and prosecute actions and proceedings in respect to penalties, forfeitures, removals and punishments for violations of the laws in connection with the assessments and taxation of property in their respective counties and districts, and such officers must at once comply.

(16) To require individuals, partnerships, companies, associations and corporations to furnish such information as the tax commission may require concerning their capital, funded or other debt, current assets and liabilities, value of property, earnings, operating and other expenses, taxes, and all other facts which may be needful to enable the tax commission to ascertain the value and the relative burden borne by all kinds of property in the state, and to require from all state and local officers such information as may be necessary for the proper discharge of the duties of the tax commission.

(17) To examine all records, books, papers and documents relating to the valuation of property of any corporation or individual, and to subpoena witnesses to appear and give testimony and to produce records, books, papers and documents relating to any matter which the tax commission shall have authority to investigate or determine. The tax commission or any party may in any investigation cause depositions of witnesses to be taken as in civil actions. Any member of the state tax commission may designate, may administer oaths and affirmations in any matter or proceeding relating to the exercise of the powers and duties of the tax commission.

(18) To visit, as a board or by individual members thereof, annually, and oftener if deemed necessary, each county of the state for the investi-

gation and direction of the work and methods of local assessors and other officials in the assessment, equalization and taxation of property, and to ascertain whether the provisions of law requiring the assessment of all property, not exempt from taxation, and the collection of taxes have been properly administered and enforced.

(19) To examine carefully into all cases where evasion or violation of the laws for assessment and taxation of property is alleged, complained of or discovered, and to ascertain wherein existing laws are defective or are improperly or negligently administered.

(20) To furnish to the governor from time to time such assistance and information as he may require.

(21) To transmit to the governor and to each member of the legislature a biennial report, with its recommendations as to such legislation as will correct or eliminate defects in the operation of the tax laws and will equalize the burden of taxation within the state.

(22) To correct any error in any assessment made by it at any time before the tax is paid thereon and report such correction to the county auditor, who shall thereupon enter the same upon the assessment roll.

(23) To establish systems of public accounting in all taxing units of the state, and provide uniform classification of accounts, which when so established shall be followed in the financial records of all taxing units, and it may recommend accounting methods and forms for public accounts in the interest of uniformity, efficiency and economy.

(24) To perform such further duties as may be imposed upon it by law, and exercise all powers necessary in the performance of its duties.

(25) To compile and publish statistics relating to taxation in this state.

Approved March 1, 1957.

CHAPTER 122

H. B. No. 66. (Passed February 21, 1957. In effect May 14, 1957.)

LEVIES — DISTRICT SCHOOLS AND EQUALIZATION

An Act Amending Section 59-9-2, Utah Code Annotated 1953, as Amended by Chapter 35, Laws of Utah 1953, Relating to Levies for District School and Equalization Purposes; and Providing an Increase in the Amount for Each Distribution Unit.

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

Section 1. Section Amended.

Section 59-9-2, Utah Code Annotated 1953, as amended by Chapter 35, Laws of Utah 1953, is amended to read:

59–9–2. For District School and Equalization Purposes.

During the first week in August the state tax commission shall ascertain from the state board of education the number of distribution

units and the number of pupils in average daily attendance in each school district in the state of Utah for the current school year, estimated according to Chapter 53, Utah Code Annotated 1953, as amended by the 30th Legislature, first special session, and the monies necessary for the cost of the operation and maintenance of the minimum school program of the state of Utah for the school fiscal year beginning July 1st preceding. The commission shall then ascertain the amounts of all surpluses in the uniform school fund as of July 1st next preceding, available for the operation and maintenance of such program, and shall estimate the anticipated income to such fund available for such purposes for the current school year from all sources, including revenues from taxes on income or from taxes on intangible property pursuant to section 3, Article XIII of the Constitution of the state of Utah.

(1) The state tax commission shall then determine for each school district the rate of levy on the assessed valuation of tangible property in each school district for the basic state-supported school program according to the following schedule:

(a) For $4050 for each distribution unit plus transportation, a 10 mill local levy; for $4237.50 for each distribution unit plus transportation, a 10.5 mill local levy; for $4425 for each distribution unit plus transportation, a 11 mill local levy; for $4612.50 for each distribution unit plus transportation, a 11.5 mill local levy; or for $4800 for each distribution unit plus transportation, a 12 mill local levy.

(b) Each county auditor shall be notified by the state tax commission as to such levy, to which shall be added such additional amount, if any, due to local undervaluation as hereinafter provided. The auditor shall inform this board of county commissioners as to the amount of such levy. The board of county commissioners shall at the time and in the manner provided by law make such levy upon the taxable property in the school district together with such further levies for school purposes as may be required by each school district to pay the costs of programs in excess of the minimum school program.

(2) In the event that the levy applied according to the above schedule will raise an amount in excess of the total basic state-supported school program for any one school district, such excess amount shall be remitted by the county, within which such district is located, to the state treasurer to be credited by him to the Uniform School Fund to be used for allocation to school districts as are other monies therein to support the basic state-supported school program. The availability of said money shall be considered by the tax commission in fixing the state property levy as provided in section 53-7-7, Utah Code Annotated 1953.

(3) There shall then be computed for each of the various districts the difference between the amount which the local levy will raise on the assessed valuation of all tangible property within the district, and the total cost of the basic state-supported school program within the district. This difference, if any, shall be apportioned from the uniform school fund to each such school district as the contribution of the state to the basic state-supported school program for such district, subject to the following conditions:

(4) Before any such apportionment is made the state tax commission shall determine the percentage of full value in money at which all

tangible property in each school district is assessed. Where the local assessed valuation in any such district shall be less than such standard ratio of local assessment to value in money as is prescribed by law, there shall be deducted from the full minimum distribution unit apportionment as determined above an equalization amount for undervaluation determined by multiplying the difference in valuation expressed in dollars by the sum of the state school levy and the local levy for school purposes.

(5) In such event the commission shall then determine the rate of levy required to produce revenue equal to such deduction for undervaluation when levied on each dollar of assessed valuation of the tangible property in the district, and it shall add such additional rate of levy to the local levy for such district, which combined rate of levy shall be certified to the county auditor and there employed by him and the county commission in lieu of the required local levy.

(6) The total of monies deducted in the apportionment to school districts by reason of local assessed undervaluation shall be retained in the uniform school fund and the tax levy to be made for the next succeeding year in order to raise the amount required for the uniform school fund to meet the state's required contribution shall be reduced accordingly.

Approved March 5, 1957.

CHAPTER 123

S. B. No. 263. (Passed March 13, 1957. In effect May 14, 1957.)

FRANCHISE AND PRIVILEGE TAX CORPORATION

An Act Amending Sections 59-13-1 and 59-13-20, Utah Code Annotated 1953, and 59-13-40, Utah Code Annotated 1953, as Amended by Chapter 122, Laws of Utah 1955, Relating to Corporation Franchise Tax; and Providing for Further Defining of the Term "Doing Business" to Include Other Activities, Providing for the Allocation of Certain Income Either to Utah or Outside Utah; and Further Providing that for the Purpose of Re-Computing the Franchise Tax Because of Adjustments on Tax Returns Filed with the Federal Government, the Statute of Limitations Shall be Extended Beyond Three Years.

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

Section 1. Sections Amended.

Sections 59-13-1 and 59-13-20, Utah Code Annotated 1953, and 59-13-40, Utah Code Annotated 1953 as amended by Chapter 122, Laws of Utah 1955, are amended to read:

59–13–1. Definitions.

For the purposes of this chapter, unless otherwise required by the context:

(1) The term "tax commission" means the state tax commission.

(2) The term "taxpayer" means any bank or corporation as hereinafter defined subject to the tax imposed by this chapter.

(3) The term "corporation" includes every corporation, and every company, joint-stock company, joint-stock association, business trust, society, or other association, organized for profit and doing business in this state, wherein interest or ownership is evidenced by certificates or other written instruments or wherein the interest or rights of shareholders, members, associates or beneficiaries are represented or evidenced by units or shares.

(4) The term "bank" includes national banking associations.

(5) The term "doing business" includes any transaction or transactions in the course of its business by a bank or corporation created under the laws of this state, or by a foreign corporation qualified to do or doing intrastate business in this state, and shall include the right to do business through such incorporation or qualification, and shall include the renting or leasing of real property within this state and the participation in joint ventures, working and operating agreements the performance of which takes place in the State of Utah.

(6) The term "taxable year" means the calendar year, or the fiscal year ending during such calendar year upon the basis of which the net income is computed, and includes, in the case of a return made for a fractional part of a year under the provisions of this chapter, or under regulations prescribed by the tax commission, the period for which such return is made. "Fiscal year" means an accounting period of twelve months, ending on the last day of any month other than December.

(7) The terms "paid or incurred" and "paid or accrued" shall be construed according to the method of acounting upon the basis of which the net income is computed. The term "received" for the purpose of the computation of net income, means "received or accrued, and "received or accrued" shall be construed according to the method of accounting upon the basis of which the net income is computed.

(8) The term "dividend" means any distribution made by a bank or corporation to its shareholders whether in money or in other property out of its earnings or profits accumulated after December 31, 1930.

(9) The term "stock" includes the share or unit of ownership in a corporation as hereinabove defined.

(10) The term "shareholder" includes stockholder, member, associate or beneficiary in any corporation as hereinabove defined.

(11) The terms "includes" and "including" when used in a definition contained in this chapter shall not be deemed to exclude other things otherwise within the meaning of the term defined.

59-13-20. Rules for Determining Net Income Allocated to this State. The portion of net income assignable to business done within this state, and which shall be the basis and measure of the tax imposed by this chapter, may be determined by an allocation upon the basis of the following rules:

(1) Interest and dividends derived from business done outside this state less related expenses shall not be allocated to this state.

(a) Rental, royalty and lease income, less related expenses shall be assigned to the state in which the properties from which this income is derived are located.

(2) Gains from the sale or exchange of capital assets consisting of real or tangible personal property situated outside this state less losses from the seal or exchange of such assets situated outside this state shall not be allocated to this state.

(3) Interest and dividends derived from business done in this state less related expenses shall be allocated to this state.

(4) Gains from the sale or exchange of capital assets consisting of real or tangible personal property situated within this state less losses from the sale or exchange of such assets situated in this state shall be allocated to this state.

(5) If the bank or other corporation carries on no business outside this state, the whole of the remainder of net income may be allocated to this state.

(6) If the bank or other corporation carries on any business outside this state, the said remainder may be divided into three equal parts:

(a) Of one third, such portion shall be attributed to business carried on within this state as shall be found by multiplying said third by a fraction whose numerator is the value of the corporation's tangible property situated within this state and whose denominator is the value of all the corporation's tangible property wherever situated.

(b) Of another third, such portion shall be attributed to business carried on within this state as shall be found by multiplying said third by a fraction whose numerator is the total amount expended by the corporation for wages, salaries, commissions or other compensation to its employees and assignable to this state and whose denominator is the total expenditures of the corporation for wages, salaries, commissions or other compensation to all of its employees.

(c) Of the remaining third, such portion shall be attributed to business carried on within this state as shall be found by multiplying said third by a fraction whose numerator is the amount of the corporation's gross receipts from business assignable to this state, and whose denominator is the amount of the corporation's gross receipts from all its business.

(d) The amount assignable to this state of expenditures of the corporation for wages, salaries, commissions or other compensation to its employees shall be such expenditures for the taxable year as represents the compensation of employees not chiefly situated at, connected with or sent out from, premises for the transaction of business owned or rented by the corporation outside this state.

(e) The amount of the corporation's gross receipts from business assignable to this state shall be the amount of its gross receipts for the taxable year from

(1st) Sales, except those negotiated or effected in behalf of the corporation by agents or agencies chiefly situated at, connected with or sent out from premises for the transaction of business owned or rented by the corporation outside this state, and sales otherwise determined by the tax commission to be attributable to the business conducted on such premises,

(2nd) Rentals or royalties from property situated, or from the use of patents, within this state.

(f) The value of the corporation's tangible property for the purpose of this section shall be the average value of such property during the taxable year.

(7) In the allocation of net income, gain or loss shall be recognized and shall be computed on the same basis and in the same manner as is provided in this chapter for the determination of net income.

(8) If in the judgment of the tax commission the application of the foregoing rules does not allocate to this state the proportion of net income fairly and equitably attributable to this state, it may with such information as it may be able to obtain make such allocation as is fairly calculated to assign to this state the portion of net income reasonably attributable to the business done within this state and to avoid subjecting the taxpayer to double taxation.

59-13-40. Period of Limitations for Making Assessments—Exceptions.

Except as provided in section 59-13-41, the amount of taxes imposed by this chapter shall be assessed within three years after the return was filed, and not proceeding in the court without assessment for the collection of such taxes shall be begun after the expiration of such period.

If the amount of net income for any year of any corporation as returned to the United States treasury department is changed or corrected by the commissioner of internal revenue or other officer of the United States or other competent authority, or where a renegotiation of a contract or sub-contract with the United States results in a change in net income, such taxpayer shall report such change or corrected net income within ninety days after the final determination of such change or correction as required to the state tax commission, and shall concede the accuracy of such determination or state wherein it is erroneous. Any corporation filing an amended return with such department shall also file, within ninety days thereafter, an amended return with the state tax commission which shall contain such information as it shall require.

If a corporation shall fail to report a change or correction by the commissioner of internal revenue or other officer of the United States or other competent authority or shall fail to file an amended return, any deficiency resulting from such adjustments may be assessed and collected within three years after said change, correction or amended return is reported to or filed with the federal government.

If any corporation agrees with the United States commissioner of internal revenue for an extension, or renewals thereof, of the period for proposing and assessing deficiencies in federal income tax for any year, the period for mailing notices of proposed deficiency tax for such year shall be three years after the return was filed or six months after the date of the expiration of the agreed period for assessing deficiencies in federal income tax, whichever period expires the later.

Approved March 22, 1957.

CHAPTER 124

H. B. No. 30. (Passed March 13, 1957. In effect May 14, 1957.)

INDIVIDUAL INCOME TAX—WITHHOLDING

An Act Amending Sections 59-14-21, 59-14-61, 59-14-65 and 59-14-66, as Enacted by Utah Code Annotated 1953, Section 59-14-19 as Amended by Chapter 112, Laws of Utah 1953, Sections 59-14-37 and 59-14-71, as Amended by Chapter 124, Laws of Utah 1955, Section 59-14-7 and 59-14-68 as Enacted by Chapter 124, Laws of Utah 1955, Relating to State Income Tax and Providing for a Re-Defining of a "Dependent" for Income Tax Purposes; Providing for a Standard Deduction for Non-Resident Taxpayers; Amending other Sections of the Individual Income Tax Act to Conform to a Withholding of Tax on Wages; Providing for the Deduction and Withholding of Individual Income Tax from Wages Paid by Employers to Employees; and Providing for the Re-Imbursement of Expenses in Inaugurating and Administering the Withholding Provisions of this Act.

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

Section 1. Sections Amended.

Sections 59-14-21, 59-14-61, 59-14-65 and 59-14-66 as enacted by Utah Code Annotated 1953, 59-14-19 as amended by Chapter 112, Laws of Utah 1953, 59-14-37 and 59-14-71 as amended by Chapter 124, Laws of Utah 1955, 59-14-7 and 59-14-68 as enacted by Chapter 124, Laws of Utah 1955, are amended to read:

59–14–7. Credits Against Net Income.

There shall be allowed the following credits against the net income:

(1) In the case of a single person a personal exemption of $600.00, or a married person living with husband or wife, a personal exemption of $1,200.00. If husband and wife make separate returns each must take his own personal exemption of $600 and neither one may use part of the personal exemption of the other; in case of a blind person, a personal exemption of $1,200.00.

(2) Six hundred dollars for each dependent person (other than husband or wife) who received his chief support from taxpayer and who is closely related by blood, marriage or adoption or is a member of his household and is not his employee, and did not have a gross income of $600.00, or more.

A person receiving taxable alimony or separate maintenance under an agreement or by decree may not be claimed as a dependent of the spouse making such payments.

(3) In case a married person dies during the taxable year, the surviving spouse may file a joint return, and take $1,200.00 as a personal exemption, provided decedent and spouse were living together at date of death and the survivor has not married during taxable year; or separate returns may be filed by or for each.

59–14–19. Payment of Tax.

When Due.

(1) Except as provided in Section 59-14-37 (2), the total amount of

tax imposed by this chapter shall be paid on the 15th day of April following the close of the calendar year, or if the return should be made on the basis of a fiscal year, then on the 15th day of the fourth month following the close of the fiscal year.

Extension of Time of Payment.

(2) At the request of the taxpayer, the tax commission may extend the time for payment of the amount determined as the tax by the taxpayer, or any part thereof, for a period not to exceed six months from the date prescribed for the payment of the tax. In such case the amount in respect of which the extension is granted shall be paid on or before the date of the expiration of the period of the extension.

59-14-21. Failure to File Return — Penalty.

In case of any failure to make and file a return and pay the tax as required by this chapter, within the time prescribed by law or prescribed by the tax commission in pursuance of law, twenty-five per cent of the tax shall be added to the tax, except that when a return is filed after such time and it is shown that the failure to file it was due to reasonable cause and not due to wilful neglect no such addition shall be made to the tax. The amount so added to any tax shall be collected at the same time and in the same manner and as part of the tax, unless the tax has been paid before the discovery of the neglect, in which case the amount so added shall be collected in the same manner as the tax.

59-14-37. Overpayments.

Credits and Refunds.

(1) Where there has been an overpayment of any tax imposed by this chapter, the amount of such overpayment shall be credited against any income tax then due from the taxpayer, and any balance shall be refunded immediately to the taxpayer; *provided, however,* in instances where a refund or credit is due because the amount of tax deducted and withheld from wages exceeded the actual tax due, no refund or credit will be made or allowed unless within three years from the due date of the return, the taxpayer or his legal representative files with the tax commission a tax return claiming the refund or credit. In all other instances where a refund or credit is due of tax not deducted and withheld from income, no credit or refund shall be allowed or made after three years from the time the tax was paid, unless before the expiration of such period a claim therefor is filed by the taxpayer or his legal representative.

(2) No credit or refund will be allowed or made where the excess tax deducted and withheld is less than One Dollar over the amount of tax actually due. A taxpayer shall not be required to pay a tax where it is shown that the total amount due is less than One Dollar. This provision shall not relieve the employer of his obligation to deduct and withhold tax from wages, nor shall this provision relieve any taxpayer from his obligation to file a tax return as required by section 59-14-16.

(3) The amount of the credit or refund shall not exceed the portion of the tax paid during the three years immediately preceding the filing of the claim, or if no claim was filed, then during the three years immediately preceding the allowance of the credit or refund.

(4) Where there has been an overpayment of tax by the employer

under the withhholding provisions of this Act, a refund or credit shall be made to the said employer only to the extent that the amount of such overpayment was not deducted and withheld from wages under the provisions of this Act.

(5) In the event of the death of a taxpayer entitled to a refund under this act, the commission may make payment to the executor or administrator of such taxpayer duly appointed, qualified and acting for his estate, or if there is no executor or administrator, payment may be made to those persons establishing a right to inherit the property of the decedent in the proportions as set out in Section 74-4-5.

Overpayment Found on Appeal.

(6) If the Supreme Court finds that there is no deficiency and further finds that the taxpayer has made an overpayment of tax in respect of the taxable year in respect of which the tax commission determined the deficiency, the Supreme Court shall have jurisdiction to determine the amount of such overpayment, and such amount shall, when the decision of the Supreme Court has become final, be credited or refunded to the taxpayer. No such credit or refund shall be made of any portion of the tax paid more than three years before the filing of the claim or the filing of the petition, whichever is earlier.

59-14-61. Penalties—Failure to Make Return or Supply Information—Penalty.

Every individual partnership, corporation, employer, joint-stock company, association or marketing association, or any officer or employee of any corporation, or member or employee of any partnership, or any officer or employee thereof, who without fraudulent intent, shall fail to make, render, sign or verify any return, or to supply any information within the time required by or under the provisions of this chapter, shall be liable to a penalty of $50.00 to be imposed, assessed and collected by the state tax commission in the same manner as is provided by this chapter with regard to delinquent taxes.

59-14-65. Deposit of Revenue with State Treasurer—Refunds to be Paid from Reserve Fund—Reversion of Unclaimed Refunds.

All revenue collected or received by the tax commission under this chapter shall be deposited daily with the state treasurer.

Eight percent of the revenue shall be retained by the state treasurer as a reserve fund for the payment of refunds to which taxpayers shall be entitled under the provisions of this chapter. The balance shall be periodically distributed and credited to the Uniform School Fund.

Refunds due to taxpayers shall be paid out of the reserve fund. If at the end of any state fiscal year there is in the reserve fund a sum in excess of $75,000, the excess thereof shall be credited to the Uniform School Fund.

Interest collected by the tax commission shall be credited to the reserve fund herein provided for in the proportion that the amount upon which it has accrued was credited, and interest due upon refund claims shall be paid out of the reserve fund. All specific penalties shall be credited to the Uniform School Fund.

The tax commission shall from time to time report to the state treasurer the amounts of the taxes, interest and penalties previously paid

over to him to be credited to the reserve fund.

In order to expedite the payment of tax refunds, the tax commission shall authorize and issue to the taxpayer the amount of the refund made payable on the state treasurer and charged to the reserve fund herein provided for the payment of refunds. Said refunds by the commission shall be made under the supervision of the state auditor. If at any time the reserve fund is exhausted, then such refund shall be paid in order out of the funds first accruing in said reserve.

Tax refunds issued by the Tax Commission and not claimed within two years from the date of issuance, shall revert to the state to be credited to the Uniform School Fund, and no further claims may be made upon the tax commission for the amounts of such refunds.

59-14-66. Interest on Overpayments and Refunds—When Payable.

Interest shall be allowed and paid upon any overpayment in respect of any tax imposed by this chapter, at the rate of six percent per annum, as follows:

(1) In the case of a credit, interest shall be computed beginning 90 days following the date of the overpayment to the due date of the amount against which the credit is taken.

(2) In the case of a refund, interest shall be computed beginning 90 days following the date of the overpayment to a date preceding the date of the refund check by not more than thirty days, such date to be determined by the tax commission.

(3) Where a credit is claimed and is due because the amount of tax deducted and withheld from wages exceeded the amount of tax actually due, interest shall be computed beginning 90 days following the date when the return claiming said credit is due and filed with the commission to the due date of the return against which the credit is taken.

(4) Where a refund is claimed and is due because the amount of the tax deducted and withheld from wages exceeded the amount of tax actually due, interest shall be computed beginning 90 days following the date when the return claiming said refund is due and filed with the commission to a date preceding the date of the refund check by not more than thirty days, such date to be determined by the tax commission.

59-14-68. What Constitutes Income from Sources Within the State—Authorized Deductions.

(1) Gross income to non-residents from sources within the state within the meaning of this act shall be computed according to the provisions of Section 59-14-4, but excluding:

(a) Salaries, wages, commission and compensation for personal services outside of Utah,

(b) Corporate dividends and interest,

(c) Gains or losses from the sale of corporate stock or from the sale of bonds. Coroporate dividends, interest and gains from the sale of corporate stocks and bonds received by a taxpayer prior to giving up his Utah domicile, or received by a taxpayer after acquiring a Utah domicile, shall be regarded as income from sources within Utah.

Sources within Utah shall include property or property rights located within the state, the income from which may be the result of an extraction process.

(2) Deductions from gross income to non-residents shall be those permitted under section 59-14-5, but limited to those items allocable to the Utah income reported and may not exceed the percentage of the full deduction that the Utah income bears to the total income, including federal income tax, except, for the purpose of this act, taxes, other than federal income tax, shall be allowed only to the extent they are paid to Utah or any of its political subdivisions, unless otherwise limited by statute.

(3) (a) In lieu of the itemized deductions allowed under subsection (2) above, a non-resident may deduct as a standard deduction an amount computed as follows: Ten per cent of total income, as defined, after deduction of federal income tax for the same period, but not to exceed $1,000.00 for husband and wife filing jointly or $500.00 for an unmarried person or husband and wife filing separate returns. The amount actually allowed as a standard deduction shall be the percentage of the above amount (ten per cent of total income subject to limitations) which Utah income bears to total income.

If husband and wife, living together have separate incomes and file separate returns as non-residents, or one files as a resident and one files as a non-resident, each is limited to a $500.00 standard deduction before application of the percentage factor to arrive at the actual amount allowed. In such instances, the standard deduction shall not be allowed to either the husband or the wife if the taxable income of one is determined without regard to the standard deduction.

(b) In addition to the standard deduction, computed as provided herein, taxpayer shall be allowed a deduction for a proportionate share of Federal Income Tax due for the same period in the same ratio as Utah income bears to total income.

(c) The standard deduction provided for herein shall be in addition to those deductions allowed under Section 59-14-4.

59-14-71. Withholding from Wages of Non-Resident Employees—Regulations — Definitions of Terms—Payment to Tax Commission—Rules and Regulations—Expenses of Administration.

(1) (a) Commencing July 1, 1957, every employer making payment of wages to non-resident employees shall deduct and withhold from wages an amount equal to seven per cent of the total amount required to be deducted and withheld by an employer from wages of an employee under the provisions of the Internal Revenue Code of the United States. The amount of tax withheld shall be computed without regard to any other amount required to be withheld thereunder.

(b) In the event that the tax deducted and withheld under subdivision (a) should prove to be disproportionate to the tax liability, the tax commission may adjust the percentage which, when withheld will, as closely as may be possible, pay the income tax liability imposed by this act.

(c) The tax commission may, in lieu of the requirement above for deducting and withholding tax based upon a percentage of federal income tax withheld, adopt by regulation tax tables which, when withheld will, as closely as possible, pay the income tax liability imposed by this act. When adopted by the tax commission said tables shall be followed by every employer in deducting and withholding tax under this act.

(2) Terms defined.

(a) The term "employer" means a person or organization transacting business in or deriving any income from sources within the State of Utah for whom an individual performs or performed any services, of whatever nature, and who has control of the payment of wages for such services, or its the officer, agent or employee of the person organization having control of the payment of wages. It includes any officer or department of state or federal governments, or any political subdivision or agency of the federal or state governments, or any city organized under a charter, or any political body not a subdivision or agency of the state.

(b) The term "employee" means and includes every individual performing services for an employer, either within or without, or both within and without the State of Utah, or any individual performing services within the state of Utah, the performances of which services constitutes, establishes and determines the relationship between the parties as that of employer and employee, and includes officers of corporations, individuals, including elected officials, performing services for the United States Government or any agency or instrumentality thereof, or the State of Utah or any county, city, municipality or political subdivision thereof.

(c) The term "wages" means "wages" as defined in the Internal Revenue Code.

(d) "Internal Revenue Code" shall mean the Internal Revenue Code of the United States, as amended, or as hereafter amended, and is to include all amendments thereto.

(e) For purposes of the withholding provisions of this act, the term "non-resident" includes any person who did not file an individual income tax return with the state tax commission for the preceding year and who has not continuously maintained a domicile in Utah for a period of one full calendar year (i.e. January 1st to December 31st), and such person shall be deemed a non-resident of Utah until he has filed an individual income tax return with the state tax commission for the preceding year and until he has continuously maintained a domicile in Utah for a full calendar year.

(3) (a) Every employer shall, on or before the last day of April, July, October, and January, pay over to the tax commission the amount required to be deducted and withheld from wages paid to any non-resident employee during the preceding calendar quarter under the provisions of this act; provided that the tax commission may alter the time or period for making reports and payment when in its opinion, the tax is in jeopardy, or it may use any other time or period as will facilitate the collection and payment of the tax by the employer.

(b) Every employer shall file a return on forms prescribed by the tax commission with each payment made to the tax commission under this act, showing the total amount of wages paid to his non-resident employees, the amount of federal income tax deducted and withheld, the amount of tax under this act deducted and withheld, and such other information as the commission may require.

(c) Every employer shall make an annual return to the commission on forms provided and approved by it, summarizing the total compensation paid, the federal income tax deducted and withheld and the state

tax deducted and withheld for each non-resident employee during the calendar year and shall file the same with the tax commission on or before the 31st day of January of the year following that for which the report is made. Every employer shall also, in accordance with such regulations as may be prescribed by the commission, provide each employee from whom state income tax has been withheld, with a statement of the amounts of total compensation paid and the amounts deducted and withheld for such employee during the preceding calender year in accordance with the provisions of this act, and said statement made available to the employee on or before the 31st day of January of the year following that for which the report is made.

(d) The employer shall be liable to the tax commission for the payment of the tax required to be deducted and withheld under this act, and the employee shall not thereafter be liable for the amount of any such payment, nor shall the employer be liable to any person or to any employee for the amount of any such payment. For the purpose of making penalty provisions of this act applicable, any amount deducted or required to be deducted and remitted to the commission under this act shall be considered the tax of the employer and with respect to such amounts he shall be considered the taxpayer.

(e) Every employer who deducts and withholds any amounts under the provisions of this act shall hold the same in trust for the State of Utah for the payment thereof to the commission in the manner and at the time provided for in this act and the State of Utah shall have a lien to secure the payment of any amounts withheld and not remitted as provided herein upon all of the assets of the employer and all property, including stock in trade, business fixtures and equipment, owned or used by the employer in the conduct of his business, so long as any delinquency continues, which said lien shall be prior to any lien of any kind whatsoever including existing liens for taxes.

(f) As a condition precedent to the doing of business in Utah, an employer may be required by the tax commission to post with the commission a corporate bond in such amount as is reasonably calculated to insure the payment to the state of taxes deducted and withheld from wages, but not to exceed $5,000.00.

(g) Insofar as they are not inconsistent with the provisions of this section, all the provisions in the Individual Income Tax Act relating to records, penalties, interest, deficiencies, redetermination of deficiencies, overpayments, refunds, assessments, and venue shall be available to the tax commission for the enforcement of the provisions of this act.

(h) Every employer shall deduct and withhold from every employee's wages the amounts required to be deducted and withheld from a non-resident employee's wages until such time as the employee has filed with his employer a certificate under oath, in such form as the commission shall prescribe, to the effect that such employee entitled to wages is a resident of the State of Utah as defined for withholding purposes. Any employee submitting a falsified statement to his employer shall be guilty of a misdemeanor.

Employers shall be required to make certificates of residence available to the commission upon request.

(4) The commission is hereby authorized to adopt and enforce such

rules and regulations as may be necessary to carry out the provisions of this act, and to make such agreements with the United States Government as are necessary to provide for the deducting and withholding of tax from wages of federal employees in the state of Utah.

(5) For the necessary expenses of administering the withholding provisions of this act to June 30, 1959, including the use of necessary tabulating devices and cards, auditing and clerical services, forms, stationary, stamps and printing, there is appropriated from the Uniform School Fund to the Tax Commission, the sum of $90,000.00 and to the Finance Commission the sum of $20,000.00.

Section 2. Date Applicable.

This act shall be applicable to all taxable years beginning on or after January 1, 1957.

Approved March 22, 1957.

CHAPTER 125

H. B. No. 25. (Passed March 11, 1957. In effect May 14, 1957.)

SALES TAX EXEMPTIONS

An Act Amending Section 59-15-2 (f) of the Utah Code Annotated 1953, Providing that Sales of Sprays and Insecticides for Control of Insects, Pests, and Diseases in Commercial Production of Fruits, Vegetables, Feeds, Seeds, and Animal Products Shall be Deemed a Wholesale Sale and Exempt from Taxation.

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

Section 1. Section Amended.

Sec. 59-15-2 of the Utah Code Annotated 1953, is amended to read:

59–15–2. Definitions — Scope — Exemptions.

(a) The term "person" includes any individual, firm, copartnership, joint adventure, corporation, estate or trust, or any group or combination acting as a unit and the plural as well as the singular number unless the intention to give a more limited meaning is disclosed by the context.

(b) The term "sale" or "sales" includes installment and credit sales, and the exchange of properties as well as the sale thereof for money, every closed transaction constituting a sale, and also includes the sale of electrical energy, gas services or entertainment taxable under the terms of this act. A transaction whereby the possession of property is transferred but the seller retains the title as security for the payment of the price shall be deemed a sale.

(c) The term "wholesaler" means a person doing a regularly organized wholesale or jobbing business, and known to the trade as such and selling to retail merchants, jobbers, dealers or other wholesalers, for the purpose of resale.

(d) The term "wholesale" means a sale of tangible personal property by wholesalers to retail merchants, jobbers, dealers or other whole-

salers for resale, and does not include a sale by wholesalers or retailers to users or consumers not for resale, except as otherwise hereinafter specified.

(e) The term "retailer" means a person doing a regularly organized retail business in tangible personal property, known to the public as such and selling to the user or consumer and not for resale, and includes commission merchants and all persons regularly engaged in the business of selling to users or consumers within the state of Utah; but the term "retailer" does not include farmers, gardeners, stockmen, poultry men or other growers or agricultural producers, except those who are regularly engaged in the business of buying or selling for a profit. The term "retail sale" means every sale within the state of Utah by a retailer or wholesaler to a user or consumer, except such sales as are defined as wholesale sales or otherwise exempted by the terms of this act; but the term "retail sale" is not intended to include isolated nor occasional sales by persons not regularly engaged in business, nor seasonal sales of crops, seeding plants, garden or farm or other agricultural produce by the producer thereof, or the return to the producer thereof of processed agricultualr products, *provided, however,* that no sale of a motor vehicle shall be deemed isolated or occasional for the purpose of this act.

(f) Each purchase of tangible personal property or product made by a person engaged in the business of manufacturing, compounding for sale, profit or use, any article, substance or commodity, which enters into and becomes an ingredient or component part of the tangible personal property or product which he manufactures, or compounds, and the container, label or the shipping case thereof, shall be deemed a wholesale sale and shall be exempt from taxation under this act; and for the purpose of this act, poultry ,dairy and other livestock feed, and the components thereof, and all seeds and seedlings, are deemed to become parts of the eggs, milk, meat and other livestock products, plants and plant products, produced for resale; and each purchase of such feed or seed from a wholesaler, or retailer as well as from any other person shall be deemed a wholesale sale and shall be exempt from taxation under this act;*provided* also that sprays and insecticides used in the control of insect pests, dieases and weeds for the commercial production of fruit, vegetables, feeds, seeds, and animal products shall be deemed a wholesale sale and exempt from taxation under this act.

Each purchase of service as defined in section 59-15-4 (b) by a person engaged in compounding and selling a service which is subject to a tax under section 59-15-4 (b) and actually used in compounding such taxable service shall be deemed a wholesale sale and shall be exempt from taxation under this act.

(g) When right to continuous possession or use of any article of tangible personal property is granted under a lease or contract and such transfer of possession would be taxable if an outright sale were made, such lease or contract shall be considered the sale of such article and the tax shall be computed and paid by the vendor or lessor upon the rentals paid.

(h) The word "tax" means either the tax payable by the purchaser of a commodity or service subject to tax, or the aggregate amount of taxes due from the vendor of such commodities or services during the period for which he is required to report his collections, as the context may require.

(i) For the purpose of this act the term "admission" includes seats and tables reserved or otherwise, and other similar accommodations and charges made therefor and "amount paid for admission" means the amount paid for such admission, exclusive of any admission tax imposed by the federal government or by this act.

(j) The term "purchase price" means the price to the consumer exclusive of any tax imposed by the federal government or by this act.

Approved March 14, 1957.

CHAPTER 126

S. B. No. 33. (Passed March 11, 1957. In effect May 14, 1957.)

SALES TAX EXEMPTIONS MOTOR FUELS

An Act Amending Section 59-15-6, Utah Code Annotated 1953, Relating to Sales Exempt from Taxation under the Emergency Revenue Act of 1933 by Excluding from Exemption all Persons but those Named; Exempting Motor Fuels.

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

Section 1. Section Amended.
Section 59-15-6, Utah Code Annotated 1953, is amended to read:

59–15–6. Exempt Sales — Motor Fuels.

All sales of motor fuels and special fuel upon which an excise tax is imposed; all sales to the United States government; all sales to the state of Utah, its departments and institutions and the political subdivisions thereof; all sales of draught beer sold for consumption on the premises; and all sales made or by religious, charitable and eleemosynary institutions, in the conduct of the regular religious, charitable, and eleemosynary functions and activities with all sales which the state of Utah is prohibited from taxing under the Constitution or laws of the United State, or of the state of Utah; shall be exempt from taxation under this act.

Approved March 18, 1957.

CHAPTER 127

H. B. No. 169. (Passed March 12, 1957. In effect May 14, 1957.)

SALES TAX EXEMPTIONS — VEHICLES SOLD TO NON-RESIDENTS

An Act Relating to Revenue and Taxation; Amending Section 59-15-6, Utah Code Annotated 1953, Providing for Exemption from Sales Tax all Sales of Vehicles to Bona Fide Non Residents.

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

Section 1. Section Amended.

Section 59-15-6, Utah Code Annotated 1953, is amended to read:

59–15–6. Exempt Sales — Sales of Vehicles to Bona Fide Non-residents.

All sales of commodities, the sale or use of which is now subject to a sale or excise tax under the laws of the state of Utah; all sales to the United States government, to the state of Utah, its departments and institutions and political subdivisions therof; all sales made to or by religious, charitable and eleemosynary institutions in the conduct of the regular relgious, charitable and eleemosynary functions and activities; all sales of vehicles of a type required to be registered under the provisions of the motor vehicle laws of this state which are made to bona fide non residents of this state and are not thereafter registered or used in this state except as necessary to transport them to the borders of this state; and all sales which the state of Utah is prohibited from taxing under the Constitution or laws of the United States, or of the state of Utah shall be exempt from taxation under this act.

Approved March 20, 1957.

CHAPTER 128

S. B. No. 229. (Passed March 14, 1957. In effect May 14, 1957.)

USE TAX DEFINITIONS

An Act Amending Section 59-16-2, Utah Code Annotated 1953, as Amended by Chapter 126, Laws of Utah 1955, Relating to Definitions of Words, Terms and Phrases Used in the Use Tax Act, and Providing for Assessment of the Use Tax Where the Right to Continuous Possession or use of Tangible Personal Property is Granted under a Lease or Contract.

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

Section 1. Section Amended.

Section 59-16-2, Utah Code Annotated 1953, as amended by Chapter 126, Laws of Utah 1955, is amended to read:

59–16–2. Definitions.

The following words, terms and phrases when used in this act have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

(a) "Storage" means and includes any keeping or retention in this state for any purpose except sale in the regular course of business of tangible personal property from a retailer.

(b) "Use" means and includes the exercise of any right or power over tangible personal property incident to the ownership of that property, except that it shall not include the sale, display, demonstration, or trial of that property in the regular course of business and held for resale.

(c) "Purchase" means any transfer, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration. A transaction whereby the possession of property is transferred but the seller retains the title as security for the payment of the price shall be deemed a purchase.

(d) "Sales price" means the total amount for which tangible personal property is sold, including any services that are a part of the sale, valued in money, whether paid in money or otherwise, and includes any amount for which credit is given to the purchaser by the seller without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service cost, interest charged, losses or any other expenses whatsoever; *provided,* cash discounts allowed and taken on sales shall not be included, or shall the sales price include the amount charged for labor or services rendered in installing, applying, remodeling or repairing property sold.

(e) "Person" means and includes any individual, firm, copartnership, joint adventure, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city, municipality, district, or other political subdivision thereof, or any other group or combination acting as a unit, and the plural as well as the singular number.

(f) "Retailer" means and includes every person engaged in the business of making sales of tangible personal property for storage, use or other consumption; *provided,* when in the opinion of the commission it is necessary for the efficient adminstration of this act to regard any salesman, representatives, peddlers or canvassers as the agents of the dealers, distributors, supervisors or employers under whom they operate or from whom they obtain the tangible personal property sold by them, irrespective of whether they are making sales on their own behalf or on behalf of such dealers, distributors, supervisors or employers, the commission may so regard them and may regard the dealers distributors, supervisors or employers, as retailers for purposes of this act.

(g) "Commission" means the state tax commission of Utah.

(h) "Business" includes any activity engaged in by any person or caused to be engaged in by him with the object of gain, benefit or advantage, either direct or indirect.

(i) "Tax" means the tax payable by the person storing, using or consuming tangible personal property, the storage, use or consumption of which is subject to tax or the aggregate amount of taxes due from every retailers making sales of tangible personal property for storage, use or other consumption in this state during the period for which he is required to report his collections, as the context may require.

(j) "Taxpayer" shall include every retailer, as herein defined, and every person storing, using or consuming tangible personal property, the storage, use or consumption of which is subject to the tax imposed by this act when such tax was not paid to a retailer.

(k) When the right to continuous possession or use of any article of tangible personal property is granted under a lease or contract, such lease or contract shall be considered the storage, use or other consumption of such article and the tax shall be computed and paid upon the rentals paid.

Approved March 18, 1957.

SECURITIES COMMISSION

CHAPTER 129

H. B. No. 82. (Passed March 13, 1957. In effect May 14, 1957.)

REGISTRATION OF DEALERS AND SALESMEN

An Act Amending Section 61-1-15, Utah Code Annotated 1953, Relating to the Registration of Securities Dealers and Salesmen, and Providing for an Examination of Applicants for Registration by the State Securities Commission, and for Further Qualifications.

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

Section 1. Section Amended.

Sec. 61-1-15, Utah Code Annotated 1953, is amended to read:

61-1-15. Registration of Dealers and Salesmen — Examination — Qualifications.

No dealer or salesman shall engage in business in this state as such dealer or salesman, or sell any securities, including securities exempted in section 61-1-5, except in transactions exempt under section 61-1-6, unless he has been registered as a dealer or salesman in the office of the commission pursuant to the provisions of this section.

Every dealer before engaging in business in this state shall file in the office of the commission an application for registration, in writing in such form as the commission may prescribe, duly verified by oath, which shall state the principal office of the applicant wherever situated, and the location of the principal office and all branch offices in this state, if any, the name or style of doing business, the names, residence and business addresses of all persons interested in the business as principals, co-partners, officers or directors, specifying as to each his capacity and title, the general plan and character of business and the length of time the dealer has been engaged in business. The commission may also require such additional information as to the applicant's previous history, record and association as it may deem necessary to establish the good repute in business of the applicant. Each applicant for original registration as a dealer, except an issuer whose securities have been registered in accordance with section 61-1-11, Utah Code Annotated 1953, shall be required to pass to the commission's

satisfaction a written examination which shall be designed by the commission to test the applicant's general knowledge of the securities business.

The examination shall be designed to assure that a certain minimum of research and study will be required for successful completion. An applicant may enroll for the examination when he feels he is sufficiently prepared to do so. Examination dates will be set in advance. The commission shall conduct at least one examination each calendar year, and such additional examinations as will expeditiously process applications for registration.

Every non-resident dealer shall file with his application an irrevocable written consent to the service of process upon the director of the state securities commission in actions against such dealer, in manner and form as provided in section 61-1-12.

Every dealer shall also file with each annual application a bond in the sum of $5,000 running to the state of Utah in such form as the commission may designate, such bond to be conditioned upon the faithful compliance with the provisions of this chapter by said dealer and by all salesmen registered by him. Such bond shall be executed by the commission, or by some surety company authorized to do business in this state. If the commission shall find that the applicant is of good repute and has complied with the provisions of this section, including the payment of the fee hereinafter provided, it shall register such applicant as a dealer.

Upon written application of a registered dealer, a general satisfactory showing as to a good character, the payment of the proper fee, and the passing of an examination as prescribed by the commission, the commission shall register as salesman of such dealer such natural persons as the dealer may request.

Said examinations shall be held on the same dates and in the same manner as prescribed for dealer applicants.

The examination shall be designed to assure that a certain minimum amount of research and study will be required for successful completion.

The names and addresses of all persons approved for registration as dealers or salesmen and all orders with respect thereto shall be recorded in a register of dealers and salesmen kept in the office of the commission, which shall be open to public inspection. Every registration under this section shall expire on the 31st day of December in each year, but renewals of registrations for the succeeding year shall be issued upon written application and furnishing bond, and payment of the fee as herein provided without the filing of further statements or furnishing any further information, or taking the examinations described above, unless specially required by the commission. Applications for renewals must be made not less than thirty nor more than sixty days before the first day of the ensuing year.

If a license is not renewed on or before January 15 of each year for which it is to run, the licensee shall be placed upon an inactive roll. Upon payment of the annual fee for the current year and a reinstatement fee of $10 the licensee shall be renewed without examination. *Provided, however,* that a licensee not renewing his license for

two successive years shall be relicensed only upon such examination as shall be required by the commission.

The fee for such registration and for each annual renewal shall be $25 in case of dealers, and $1 each, in case of salesmen.

Changes in registration occasioned by changes of a partnership, or in the principals, copartners, officers or directors of any dealer may be made from time to time by written application setting forth the facts with respect to such change.

Approved March 22, 1957.

CHAPTER 130

H. B. No. 83. (Passed March 11, 1957. In effect May 14, 1957.)

GIFTS OF SECURITIES TO MINORS

An Act Relating to Gifts of Securities and Money to Minors; Providing Definitions, Procedure, Forms, and Custodian's Duties.

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

Section 1. Title of Act.
This act may be cited as the "Utah Uniform Gifts to Minors Act."

Section 2. Definitions.
As used in this act:

1. An "adult" is a person who has attained the age of twenty-one years.

2. A "bank" is a commercial or savings bank, or a loan and trust company doing a banking business, organized under the laws of Utah, or a national banking association.

3. A "broker" is a person lawfully engaged in the business of effecting transactions in securities for the account of others. The term includes a bank which effects such transactions. The term also includes a person lawfully engaged in buying and selling securities for his own account, through a broker or otherwise, as a part of a regular business.

4. "Court" means the probate division of the district court in and for the county in which the custodian resides.

5. "The custodial property" includes:

(1) All securities and money under the supervision of the same custodian for the same minor as a consequence of a gift or gifts made to the minor in a manner prescribed in this act;

(2) The income from the custodial property; and

(3) The proceeds, immediate and remote, from the sale, exchange, conversion, investment, reinvestment or other disposition of such securities, money and income.

6. A "custodian" is a person so designated in a manner prescribed in this act.

7. A "guardian" of a minor includes the general guardian or a guardian of his property, estate or person.

8. An "issuer" is a person who places or authorizes the placing of his name on a security (other than as a transfer agent) to evidence that it represents a share, participation or other interest in his prop-

erty or in an enterprise or to evidence his duty or undertaking to perform an obligation evidenced by the security or who becomes responsible for or in place of any such person.

9. A "legal representative" of a person is his executor or the administrator, general guardian, or a guardian of his property or estate.

10. A "member" of a "minor's family" means any of the minor's parents, grandparents, brothers, sisters, uncles and aunts, whether of the whole blood or the half blood, or by or through legal adoption.

11. A "minor" is a person who has not attained the age of twenty-one years.

12. A "security" includes any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest of participation in an oil, gas or mining title or lease or in payments out of production under such a title or lease, collateral trust certificate, transferable share, voting trust certificate or, in general, any interest or instrument commonly known as a security, or any certificate of interest or participation in, any temporary or interim certificate, receipt or certificate of deposit for, or any warrant or right to subscribe to or purchase, any of the foregoing. The term does not include a security of which the donor is the issuer. A security is in "registered form" when it specifies a person entitled to it or to the rights it evidences and its transfer may be registered upon books maintained for that purpose by or on behalf of the issuer.

13. A "transfer agent" is a person who acts as authenticating trustee, transfer agents, registrar or other agent for an issuer in the registration of transfers of its securities or in the issue of new securities or in the cancellation of surrender securities.

14. A "trust company" is a bank or loan and trust company authorized to exercise trust powers.

Section 3. Gifts by Adult to Minor During Lifetime of Securities or Money — Authorization — Conditions.

An adult person may, during his lifetime, make a gift of a security or money to a person who is a minor on the date of the gift:

(1) If the subject of the gift is a security in registered form, by registering it in the name of the donor, another adult person or a trust company, followed, in substance, by the words: "as custodian for ..... under the Utah
(name of minor)
Uniform Gifts to Minors Act;"

(2) If the subject of the gift is a security not in registered form, by delivering it to an adult person other than the donor or a trust company, accompanied by a statement of gift in substantially the following form, signed by the donor and the person designated as custodian: "GIFT UNDER THE UTAH UNIFORM GIFTS TO MINORS ACT

I, ... hereby deliver to
(name of donor)

..... as custodian for .....
(name of custodian) (name of minor)
under the Utah Uniform Gifts to Minors Act, the following secur-

ity(ies): (insert an appropriate description of the security or securities delivered sufficent to identify it or them)

.....

(Signature of donor)

.....hereby acknowledges receipt of the
(name of custodian)

above described security(ies) as custodian for the above minor under the Utah Uniform Gifts to Minors Act.

Dated:..... .....

(signature of custodian)

3. If the subject of the gift is money, by paying or delivering it to a broker or a bank for credit to an account in the name of the donor, another adult person or a trust company, followed, in substance, by the words: "as custodian for.....
(name of minor)

under the Utah Uniform Gifts to Minors Act."

2. Any gift made in a manner prescribed in subsection (1) may be made to only one minor and only one person may be the custodian.

3. A donor who makes a gift to a minor in a manner prescribed in subsection (1) shall promptly do all things within his power to put the subject of the gift in the possession and control of the custodian, but neither the donor's failure to comply with this subsection, nor his designation of an ineligible custodian, nor renunciation by the person designated as custodian affects the consummation of the gift.

Section 4. Gift Irrevocable — Gift to Incorporate Provisions of Act.

A gift made in a manner prescribed in this act is irrevocable and conveys to the minor indefeasibly vested legal title to the security or money given, but no guardian of the minor has any right, power, duty or authority with respect to the custodial property except as provided in this act.

2. By making a gift in a manner prescribed in this act, the donor incorporates in his gift all the provisions of this act and grants to the custodian, and to any issuer, transfer agent, bank, broker or third person dealing with a person designated as custodian, the respective powers, rights and immunities provided in this act.

Section 5. Duty of Custodian.

1. The custodian shall collect, hold, manage, invest and reinvest the custodial property.

2. The custodian shall pay over to the minor for expenditure by him, or expend for the minor's benefit, so much of or all the custodial property as the custodian deems advisable for the support, maintenance, education and benefit of the minor in the manner, at the time or times, and to the extent that the custodian in his discretion deems suitable and proper, with or without court order, with or without regard to the duty of himself or of any other person to support the minor or his ability to do so, and with or without regard to any other income or property of the minor which may be applicable or available for any such purpose.

3. The court, on the petition of a parent or guardian of the minor or of the minor, if he has attained the age of fourteen years, may

order the custodian to pay over to the minor for expenditure by him or to expend so much of or all the custodial property as is necessary for the minor's support, maintenance or education.

4. To the extent that the custodial property is not so expended, the custodian shall deliver or pay it over to the minor on his attaining the age of twenty-one years or, if the minor dies before attaining the age of twenty-one years, he shall thereupon deliver or pay it over to the estate of the minor.

5. The custodian, notwithstanding statutes restricting investments by fiduciaries, shall invest and reinvest the custodial property as would a prudent man of discretion and intelligence who is seeking a reasonable income and the liability to the minor or his estate, retain a security given to the minor in a manner prescribed in this act.

6. The custodian may sell, exchange, convert or otherwise dispose of custodial property in the manner, at the time or times, for the price or prices and upon the terms he deems advisable. He may vote in person or by general or limited proxy a security which is custodial property. He may consent, directly or through a committee or other agent, to the reorganization, consolidation, merger, dissolution or liquidation of an issuer, a security of which is custodial property, and to the sale, lease, pledge or mortgage of any property by or to such an issuer, and to any other action by such an issuer. He may execute and deliver any and all instruments in writing which he deems advisable to carry out any of his powers as custodian.

7. The custodian shall register each security which is custodial property and in registered form in the name of the custodian, followed, in substance, by the words: "as custodian for .....
(name of minor
under the Utah Uniform Gifts to Minors Act." The custodian shall keep all other custodial property separate and distinct from his own property in a manner to identify it clearly as custodial property.

8. The custodian shall keep records of all transactions with respect to the custodial property and make them available for inspection at reasonable intervals by a parent or legal representative of the minor or by the minor, if he has attained the age of fourteen years.

9. A custodian has, and holds as powers in trust, with respect to the custodial property, in addition to the rights and powers provided in this act, all the rights and powers which a guardian has with respect to property not held as custodial property.

Section 6. Reimbursement of Custodian.

1. A custodian is entitled to reimbursement from the custodial property for his reasonable expenses incurred in the performance of his duties.

2. A custodian may act without compensation for his services.

3. Unless he is a donor, a custodian may receive from the custodial property reasonable compensation for his services determined by one of the following standards in the order stated:

(1) A direction by the donor when the gift is made:

(2) A statute of this state applicable to custodians;

(3) The statute of this state applicable to guardians;

(4) Except as otherwise provided in this act, a custodian shall not be required to give bond for the performance of his duties .

5. A custodian not compensated for his services is not liable for losses to the custodial property unless they result from his bad faith, intentional wrongdoing or gross negligence or from his failure to maintain the standard or prudence in investing the custodial property provided in this act.

Section 7. No Duty on Person Dealing With Person Purporting to Act as a Donor to Determine Right to Act or Capacity.

No issuer, transfer agent, bank, broker or other person acting on the instructions of or otherwise dealing with any person purporting to act as a donor or in the capacity of a custodian is responsible for determining whether the person designated by the purported donor or purporting to act as a custodian has been duly designated or whether any purchase, sale or transfer to or by or any other act of any person purporting to act in the capacity of custodian is in accordance with or authorized by this act, or is obliged to inquire into the validity or propriety under this act of any instrument or instructions executed or given by a person purporting to act as a donor or in the capacity of a custodian, or is bound to see the application by any person purporting to act in the capacity of a custodian of any money or other property paid or delivered to him.

Section 8. Who Eligible to Become Successor Custodian — Resignation of Custodian — Designation — Petition to Court.

Only an adult member of the minor's family, a guardian of the minor or a trust company is eligible to become successor custodian. A successor custodian has all the rights, powers, duties and immunities of a custodian designated in a manner prescribed by this act.

2. A custodian, other than the donor, may design and designate his successor by:

(1) Executing an instrument of resignation designating custodian; and

(2) Causing each security which is custodial property and in registered form to be registered in the name of the successor custodian followed, in substance, by the words: "as custodian for .....

.....

(name of minor)

under the Utah Uniform Gifts to Minors Act;" and

(3) Delivering to the successor custodian the instrument of resignation, each security registered in the name of the successor custodian and all other custodial property, together with any additional instruments required for the transfer thereof.

3. A custodian, whether or not a donor, may petition the court for permission to resign and for the designation of a successor custodian.

4. If the person designated as custodian is not eligible, renounces or dies before the minor attains the age of twenty-one years, the guardian of the minor shall be successor custodian. If the minor has no guardian, a donor, his legal representative, the legal representative of the custodian, an adult member of the minor's family, or the minor,

if he has attained the age of fourteen years, may petition the court for the designation of a successor custodian.

5. A donor, the legal representative of a donor, an adult member of the minor's family, a guardian of the minor or the minor, if he has attained the age of fourteen years, may petition the court that, for cause shown in the petition, the custodian be removed and a successor custodian be designated or, in the alternative that the custodian be required to give bond for the performance of his duties.

6. Upon the filing of a petition as provided in this section, the court shall grant an order, directed to the persons and returnable on such notice as the court may require, to show cause why the relief prayed for in the petition should not be granted and, in due course, grant such relief as the court finds to be in the best interests of the minor.

Section 9. Petition by Minor for Accounting.

1. The minor, if he has attained the age of fourteen years, or the legal representative of the minor, an adult member of the minor's family, or a donor or his legal representative may petition the court for an accounting by the custodian or his legal representative.

2. The court, in a proceeding under this act or otherwise, may require or permit the custodian or his legal representative to account and, if the custodian is removed, shall so require and order delivery of all custodial property to the successor custodian and the execution of all instruments required for the transfer thereof.

Section 10. Construction of Act.

This act shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

2. This act shall not be construed as providing an exclusive method for making gifts to minors.

Section 11. Constitutionality.

If any provision of this act or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Approved March 21, 1957.

STATE AFFAIRS IN GENERAL

CHAPTER 131

S. B. No. 249. (Passed March 14, 1957. In effect May 14, 1957.)

INTERSTATE OIL COMPACT

An Act Authorizing and Directing the Governor of the State of Utah, for and in the Name of Utah, to Join With the Other States in the Interstate Oil Compact to Conserve Oil and Gas.

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

Section 1. Interstate Oil Compact.
The governor of the State of Utah is authorized and directed, for and in the name of the State of Utah to join with the other states in the interstate oil compact to conserve oil and gas, which was executed in Dallas, Texas, on the 16th day of February, 1935, and has been extended to the 1st day of September, 1959, with the consent of Congress, and that said Compact and all extensions are now on deposit with the Department of State of the United States.

Section 2. Execution of Agreements.
The governor of the State of Utah is authorized and empowered, for and in the name of the State of Utah to execute agreements for further extension of the expiration date of said compact to conserve oil and gas, and to determine if and when it shall be to the best interest of the State of Utah to withdraw from said compact upon sixty days' notice as provided by its terms. In the event that he shall determine that the state shall withdraw from said compact he shall have the power and authority to give necessary notice and to take any and all steps necessary and proper to effect the withdrawal of the State of Utah from said compact.

Section 3. Governor to be Official Representative on Oil Compact
The governor shall be the official representative of the State of Utah on the "interstate oil compact commission" provided for in the compact to conserve oil and gas, and shall exercise and perform for the state all of the powers and duties as members of the interstate oil compact commission; *provided, however,* that he shall have the authority to appoint an assistant representative who shall act in his stead as the official representative of the State of Utah as a member of said commission.

Approved March 18, 1957.

CHAPTER 132

S. B. No. 31. (Passed February 28, 1957. In effect May 14, 1957.)

STATE COUNCIL OF DEFENSE

An Act Amending Sections 63-5-2 and 63-5-4, Utah Code Annotated 1953, and Amending Section 63-5-19, Utah Code Annotated 1953, as Amended by Chapter 120, Laws of Utah 1953 and Chapter 129, Laws of Utah 1955, Relating to the State Council of Defense: Providing that no More than Two Members of the Council Appointed by the Governor Shall Belong to the Same Political Party: Permitting the Council to Buy, Sell and Lease Real Property and to Accept Gifts of Service, Real and Personal Property, or Funds from the Federal Government: Extending the Expiration Date of the State Council of Defense Act to July 1, 1959.

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

Section 1. Sections Amended.

Sections 63-5-2 and 63-5-4, Utah Code Annotated 1953, and section 63-5-19, Utah Code Annotated 1953, as amended by Chapter 120, Laws of Utah 1953 and Chapter 129, Laws of Utah 1955, are amended to read:

63-5-2. Composition of State Defense Council — Executive Director — Other Employees — Compensation — Expenses.

(a) The state council of defense shall be composed of the governor, the secretary of state, the attorney general, the president of the senate, the speaker of the house of representatives, and four members appointed by the governor from the citizens of the state at large to hold office during the pleasure of the governor. The governor shall designate the chairman and vice-chairman of the council. Appointment of citizen members shall be made with reference to their special knowledge of industry, transportation, agriculture, consumer protection, labor, education, health, welfare or other subjects relating to national or state defense or combating disasters. No more than two of the four members appointed by the governor shall be members of the same political party.

(b) The council may employ an executive director and such technical clerical, stenographic and other personnel and fix their compensation, if any, and may make such expenditures within the appropriation therefor as are necessary to carry out the purpose of this act.

(c) The members of the council shall serve without compensation, but shall be reimbursed for their actual and necessary traveling and other expenses incurred in connection with attendance upon meetings of the council.

(d) The governor may at his discretion terminate the individual appointment to the council and fill vacancies.

(e) The council shall be provided with appropriate office space, furniture, equipment, supplies, stationery and printing in the same manner as other state agencies are supplied.

63-5-4. Powers and Duties of Council.

The council shall, consistent with existing statutes relating to martial law and use of the state guard, and subject to direction and control of the legislature, have the following powers and duties:

(a) To adopt, amend, repeal and publish rules, regulations and by-laws governing its procedure and activities.

(b) To cooperate with the advisory commission to the council of national defense through its division of state and local cooperation or with any similar federal agencies hereafter created, and with any departments or other federal agencies engaged in defense activities.

(c) To cooperate with similar councils of defense in other states.

(d) To cooperate with local defense councils.

(e) To supervise and direct investigations and report to the governor with recommendations for legislation or other appropriate action as it may deem necessary, with respect to the following matters insofar as they are or may be related to defense:

(1) Industrial materials and facilities.

(2) Production and manufacturing facilities.
(3) Agriculture, food supply and land use.
(4) Transportation facilities.
(5) Labor supply and training, labor relations and human resources, professions, trades and skills.
(6) Consumers and consumer protection.
(7) Housing and related facilities.
(8) Health, hospitals, and sanitation facilities.
(9) Welfare.
(10) Educational facilities.
(11) Recreational areas and facilities.
(12) Finance.
(13) Civil liberties, including but without limitation, the protection thereof, maintainance of law and order and measure to guard against sabotage and subversive activities.
(14) Civil defense, including police mobilization, coordination for fire protection and disaster relief.
(15) Any other type of activity directly or indirectly related to defense.

(f) To create committees, either within or without its membership, to aid it in the discharge of its powers and duties.

(g) To require and direct the cooperation and assistance of state and local governmental agencies, officials, employees, property and equipment in combating the emergency and in making plans and training personnel before the existence of an emergency and commencing with the effective date of this act.

(h) To make full investigation as to all questions directly or indirectly relating to the powers or duties vested in it by this act, or by any other law.

(i) To buy, sell, lease, or otherwise acquire and dispose of real and personal property, and to accept on behalf of the state, with the consent of the governor, any gift of service, real property and personal property of all kinds, or funds from the federal government or agency thereof or agent thereof, or from another state or from any person, firm or corporation.

(j) With the approval of the governor, the state board of examiners and the federal civil defense administration to negotiate and enter into compacts with other states when authorized thereto by the federal Congress, to be operative only in the event of a proclaimed emergency, providing for authorization, accrediting and permission of doctors, nurses, bacteriologists, radiologists and other scientists duly licensed by another state to come into this state to assist in relieving distress within the limits of their licensed skills; provided, that any such compacts shall be made expressly subject to approval by the legislature of Utah at its next subsequent regular or special session; and provided further that no compact shall require a person to go from one state to another state against his will or take private property from this state without the owner's consent and provided further that such compacts shall not authorize or consent to the removal or evacuation of any persons from or into this state until legislative approval shall be given specifically by the Utah legislature.

(k) To approve compacts for mutual aid by and between political subdivisions of the state from combating public emergency as defined herein, so long as the governing body of each such political subdivision shall unanimously approve such mutual aid compacts.

(l) To do all acts and things, not inconsistent with law, for the furtherance of defense activities.

63–5–19. Expiration Date.

This act shall expire and terminate on July 1, 1959.

Approved March 11, 1957.

CHAPTER 133

S. B. No. 189. (Passed March 12, 1957. In effect March 26, 1957.)

BUILDING COMMISSION

An Act Amending Sections 63-10-1, 63-10-3, 63-10-7 and 63-10-10 Utah Code Annotated 1953, Relating to the Utah State Building Board; Providing for a Separate Building Board and for Preparation by the Board of a Ten-year State Building Plan for Presentation to the Governor and the Legislature; Enacting New Sections Providing for Appointment of a Director for the Board and Outlining His Duties, Appropriating the Sum of $500,000 from the General Fund to a Fund to be Known as the Building Board Planning Fund and Specifying its Purpose and Method of Control; Repealing Sections 63-10-4, 63-10-5, 63-10-6 and 63-10-11 Utah Code Annotated 1953; an Enacting Clause.

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

Section 1. Sections Amended.

Sections 63-10-1, 63-10-3, 63-10-7 and 63-10-10, Utah Code Annotated 1953, are amended to read:

63–10–1. Utah State Building Board — Membership.

There shall be a commission composed of five members to be known as the Utah state building board. The members of the commission shall be appointed by the governor, with the advice and consent of the senate, upon a bi-partisan, part-time basis, for a term of six years commencing on April 1 of odd numbered years. Two of the first commissioners to be appointed shall be appointed for a term of only two years and one of the first commissioners to be appointed shall be appointed for a term of only four years in order that terms shall be staggered. Each commissioner shall hold office until his successor is appointed and qualified. One member of the commission shall be designated by the governor as chairman. The Utah state building board shall enforce the provisions of law relating to the building and expansion program of the state as provided by law. The members of the commission shall not receive a salary but shall be paid a per diem and their actual traveling expenses, as approved by the board of examiners.

63–10–3. Meetings — Quorum — Rules.

Meetings of the board may be held at any time upon call of the

governor or of any two members of the board or of the director. The board is empowered to adopt rules of procedure and to make all arrangements for its meetings. Three members of the board shall constitute a quorum for the transaction of business.

63–10–7. Powers and Duties.

The Utah state building board shall carry out the building and expansion program of the state provided by law, as and when funds are from time to time available. The board is given power and authority to do any and all things which in its judgment may be necessary or proper for carrying out the provisions of this chapter including the following express powers and duties:

(1) To cause to be prepared in conjunction with the institutions a master plan of structures built or contemplated, and to be prepared for submittal to the governor and the legislature a comprehensive ten-year building plan for the State of Utah suggesting priority for all state institutions on the basis of present and future need. The plan shall include all proposed buildings which are to be constructed wholly or in part with state funds and all proposed repairs and alterations of existing buildings of the state and of the departments, commissions, institutions, and agencies of the state. Such plan shall include maps, information and substantiating data to support the adequacy of the plans projected, and estimates of the cost of each project.

(2) To amend and keep up to date the ten-year building program for submittal to the governor and subsequent legislatures.

(3) To recommend to the governor and legislature as a part of the long-range plan changes in the law, if any, necessary to insure an effective, well-coordinated building program for all state institutions.

(4) To cooperate with the designated governing body of each department, commission, institution, and agency of this state in order to accurately determine their building needs for the ensuing ten-year period.

(5) To cause to be prepared and submitted, either by its own employees or others, designs, plans and specifications for the various buildings and improvements, and other work to be carried out by the board; to determine, with the approval of the governor, the need for all alterations and repairs to all existing buildings of the state and of the departments, commissions, institutions and agencies of the state where the estimated cost is in excess of $8,000, and to exercise supervision over the design, construction and installation of heating plants and appurtenances thereto in all state buildings; *provided,* that no building shall be constructed, improvements made or work done for, or on the property of, any state institution until the location, designs, plans and specifications therefor shall be approved by the board, commission or officials charged with the administration of the affairs of such institution.

(6) To formulate and adopt, amend and revoke, such rules and regulations as it may deem necessary or proper in the exercise of its powers or the discharge of its duties.

(7) To make contracts for any work which the board is authorized by law to do or cause to be done; such contracts except those for pro-

fessional services to be let to the lowest bidder who in the judgment of the board is responsible and qualified to do the work. The judgment of the board as to the responsibility and qualifications of such bidders shall be conclusive, except in case of fraud or bad faith. The manner of calling for bids, the kind and time of notice, the conditions thereof, and all other matters connected therewith shall be such as the board may from time to time prescribe.

(8) To send its members or other representatives to such places within the state or with the approval of the board of examiners without the state, for such purposes as it may deem beneficial to its work.

(9) To procure, with the approval of the department of finance, such assistance and services, professional, skilled or otherwise, as it may deem necessary from time to time for the proper carrying out of its work.

(10) To prepare and submit annually to the governor, on or before the 1st day of February, the work planned by the board for that year, and the estimated financial requirements therefor; such submitted plans, however, shall be subject to change from time to time in the discretion of the board.

(11) To adopt and use a common seal of such form and design as it may prescribe, filing a description and impression of the same in the office of the secretary of state. All courts of this state shall take judicial notice of such seal.

(12) To sue in the name of the Utah state building board.

(13) To be sued in the name of the Utah state building board only upon written contracts made by it or under its authority and sealed with its official seal.

(14) To buy, lease and acquire by exchange or otherwise, with the approval of the department of finance, and to hold whatever property of any kind, real or personal, it may deem necessary or proper for the discharge of its powers and duties.

(15) To sell, exchange or lease, or otherwise permit others to possess or use, and otherwise to dispose of, with the approval of the department of finance, any and all property as it may acquire and hold in the discharge of its powers and duties.

(16) To supervise the expenditure of funds in providing plans, engineering specifications, sites, and construction of the buildings for which legislative appropriations have been made. The board shall expend the amounts necessary from said appropriations for planning, engineering, and architectural work. Such amounts as may be necessary to cover expenditures previously made from any building board planning fund in the preparation of plans, engineering and specifications shall be returned to said fund. The building board shall hold in reserve a reasonable percent of each appropriation for the construction of a building for contingencies which shall be over and above all amounts obligated by contract for planning, engineering and architectural work, sites, and construction contracts, which amount shall be held by the building board to cover unforeseen contingencies, and which funds shall be used only upon the following conditions:

(a) That the engineer, architect or builder recommend and justify the proposed contingency expenditure;

(b) That the board or head of the sponsoring agency for which the legislature made an appropriation for a building project makes an official request to the building board;

(c) That the director of the building board investigate the nature of the expenditure and concurs in the necessity of the proposed expenditure; and

(d) That the board authorizes the expenditure.

In the event any part of the appropriation for a building project remains unencumbered after the construction of a project is completed, the balance of such appropriation shall be dedicated to other building needs of the agency for which the appropriation was made and shall not revert to the general fund unless subsequent legislation requires it to be closed out.

(17) The building board shall, unless otherwise specifically instructed by the terms of the appropriation of a particular project, see to it that no obligations beyond the appropriation are incurred in the construction of any project authorized by the legislature. However, the legislature may by specific provision provide for extending construction of a building or the completion of a project into future fiscal periods. Only in such event shall the building board consent to the drafting of any plan or the letting of any contract that will exceed in cost the appropriation currently available for the project in question.

(18) The building board may take steps to prepare plans for a structure authorized by the legislature, paying for the same out of its planning fund as soon as the measures passed by the legislature are approved by the governor and upon written request of the sponsoring institution and upon certification by the state fiscal officer that the legislature has made an appropriation for the project indicated. The building board may proceed to award contracts for construction for any project when the written request by a sponsoring institution shall direct the building board to so proceed and when the state fiscal officer shall have certified that the legislature has made an appropriation for the purpose under consideration. Such funds shall be available upon demand within the biennium to which the appropriation applies. It shall not be necessary for the building board to await the transfer of the full amount of such appropriation, but it shall become the duty of the state fiscal officer to make said amount available at such times as the building board may require to meet the obligations incurred by it in the development of building projects authorized by the legislature.

(19) The foregoing particular enumeration of powers is intended only for the purpose of clearly providing certain powers deemed particularly important, and shall not be construed as limiting the powers and authority granted to the board to those powers particularly enumerated nor even to the general classes thereof; but it is expressly declared that the Utah state building board is vested with full power and authority to do any and all things which in its judgment may be necessary or proper for carrying out any of the purposes of this chapter, including the making of necessary and proper expenditures, with the approval of the governor, of state money; *provided,* that no expenditures shall be made or authorized in excess of the amount from time to time

appropriated therefor and that all expenditures shall be made in the manner provided by law upon the order of the board, subject to approval by the department of finance before payment is made.

63-10-10. Report to Governor — Ten Year Plan — Publication of Report — Governor's Comments.

The Utah state building board shall make a report to the governor by October 1 of each year. The report shall include the current ten-year plan prepared pursuant to subsection 1 of section 63-10-7, Utah Code Annotated 1953. The report with the governor's comments and recommendations on the report shall be published in pamphlet or book form by the secretary of state, and such report with the governor's comments and recommendations shall be presented to each member of the legislature during the first week of every regular session.

Section 2. Section Enacted — Appointment of Director — Removal — Salary.

The building board, with the approval of the governor, shall appoint a director. The director may be removed at any time at the pleasure of the board with the concurrence of the governor. The director shall be a person of proven administrative ability and shall have had technical training and practical experience in the construction industry. The director, under the supervision of the state building board, shall administer all the laws within the jurisdiction of the state building board and perform such other duties as may be provided for by law. Unless authorized by the building board, he shall not hold any other public office, nor any office in a political party or organization and shall devote his entire time to the service of the state and the discharge of his official duties. The director shall receive a salary to be determined by the state building board. He shall furnish a bond in such amount and kind as shall be determined by the commission of finance, which bond shall not be less than $25,000, and conditioned that he will faithfully perform his duties, safely keep and account for all funds, securities, documents and papers entrusted to his care, and on the expiration of his office deliver all funds, securities, documents and records of his office to his successor.

Section 3. Section Enacted — Technical and Clerical Help — Salaries.

The director shall, with the approval of the building board and within the department's budget, hire technical and clerical assistance as he deems necessary. The building board shall fix the salary of all technical assistants hired and shall fix the salaries of clerical assistants in accordance with standards adopted by the commission of finance, unless otherwise provided by law.

Section 4. Section Enacted — Building Board Planning Fund — Uses.

The building board planning fund shall be used to make payments for engineering, architectural and other planning expenses necessary to make a meaningful cost estimate of any building that may be constructed wholly or in part with state funds and where construction of such building is contemplated within the current building board ten-year plan. The director, with the approval of the building board,

shall authorize all payments made from the planning fund. Such payments shall be a charge on the project for which they were drawn. The amount so paid shall be credited to the building board planning fund at such time as the legislature appropriates money for any building project for which planning costs have previously been paid from the planning fund. Money may also be expended from the planning fund for architectural and engineering services incident to the planning and preparation of applications for funds on buildings financed under the provisions of Sections 53-38-2 and 53-38-3, Utah Code Annotated 1953 as amended by Chapter 109, Laws of Utah 1955; *provided, however,* that upon approval of such financing the money so spent for architectural and engineering services shall be returned as a credit to the planning fund.

Section 5. Section Enacted — Office Space for Building Board.
The Utah state building board, its director and staff shall be furnished adequate office space and equipment at the seat of government.

Section 6. Section Enacted — Appropriation.
There is appropriated from the general fund of the State of Utah, not otherwise appropriated, the sum of $500,000 to be known as the building board planning fund and to be used and controlled in the manner prescribed in section 4 of this act. Such fund shall not revert to the general fund at the end of any biennium but shall remain as a permanent fund.

Section 7. Sections Repealed.
Sections 63-10-4, 63-10-5, 63-10-6 and 63-10-11, Utah Code Annotated 1953, are repealed.

Section 8. Effective Date.
This act shall take effect upon approval.
Approved March 26, 1957.

CHAPTER 134

S. B. No. 213. (Passed March 12, 1957. In effect March 18, 1957.)

BUILDING COMMISSION — STATE OFFICE BUILDING

An Act Authorizing the State Building Board to Plan and Construct a State Office Building and Authorizing the State Board of Loan Commissioners to Negotiate Loans from the State Land Board, the State Insurance Fund, the Utah School Employees Retirement Fund, the State Treasurer or any other State Agency or Institution Having Control of Public Funds, Reserve Accounts, or Permanent Funds to the Amount of $3,000,000 or so much Thereof as is Necessary for Planning and Constructing Said State Office Building; Providing for the Repayment of Such Loans from Assessments Made Against Each State Department or Agency Using Said Building; and an Emergency Clause.

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

Section 1. Construction of State Office Building Authorized — Plans and Specifications.

The Utah state building board is authorized to construct a state office building to be located on the state capitol grounds and to be financed as hereinafter provided. The plans, specifications, design and architecture for said building shall be furnished by the state building board and shall conform to the general plan selected by the state office building commission as provided in SCR No. 11, 31st Legislature of the State of Utah.

Section 2. Financing of Construction.

The Utah state board of loan commissioners is authorized to negotiate loans for the state of Utah, the proceeds of which shall be used to finance construction of the state office building provided for in section 1. Such funds may be borrowed from the state insurance fund, the Utah state land board, the Utah school employees retirement fund, the state treasurer or from any other state agency or institution having control of any public funds and authorized to loan the same. When requested to do so by the state board of loan commissioners, such agencies are directed to invest those funds under their control, not encumbered or reserved for expenditure prior to the due date expressed in any instrument evidencing the indebtedness thereby created, in notes, bonds, warrants or other certificates of indebtedness issued and executed by the board of loan commissioners in accordance with the provisions of this act.

The enumeration of specific state boards, commission, agencies, institutions or funds in this act shall not be deemed to exclude any other state board, commission, agency, institution or fund from the operation thereof.

Section 3. Issuance of Bonds, Notes, Warrants or Other Certificates of Indebtedness Authorized — Limitation on Maturity — Yield.

The board of loan commissioners may in its discretion issue either bonds, notes, warrants or other certificates of indebtedness deemed by the attorney general satisfactorily to evidence the loan payable to the state fund or agency from which such funds are borrowed. The writing in whatever form evidencing such indebtedness, shall provide for its maturity in not to exceed twelve years and shall bear interest at a rate equal to the average yield of the total investments of such agency made in the six-month period immediately preceding the time such loan is made.

Section 4. Funds under Control of State Treasurer May be Loaned for Building Purposes — Limitations — Interest.

If in the opinion of the board of loan commissioners, state funds under the control of the Utah state treasurer, and deposited in banks or other depositaries or invested in short-term government notes or bills may be loaned to the State of Utah for the purposes herein expressed without impairing the ability of the treasurer to honor and redeem warrants drawn or expected to be drawn during the term of

any such loan upon him, the state treasurer is authorized, and when requested by the board of loan commissioners, directed to loan to the board of loan commissioners such funds for the purposes and upon the terms herein provided except that no interest shall be payable upon any funds so loaned and borrowed.

Section 5. Limitation on Borrowed Funds.
The funds borrowed by the board of loan commissioners for use as set forth in this act shall not exceed the sum of $3,000,000 or so much thereof as may be necessary to defray the cost of planning and constructing said state office building.

Section 6. Funds May be Invested in Bonds, Notes, Warrants and Other Certificates Notwithstanding Provisions of Statute.
Notwithstanding the provisions of Sections 53-29-9, 63-2-34, and 65-1-65, Utah Code Annotated 1953, or any other provision of law wherein it is provided that the investment of public funds is restricted to bonds of a state or the State of Utah, any public funds which may be invested in any security or obligation of any nature whatsoever may be invested in the type of security, certificate or instrument provided for in section 3 hereof.

Section 7. Repayment of Bonds, Notes, Warrants or Other Certificates.
Such bonds, notes, warrants or other certificates of indebtedness shall be repaid in both principal and interest from assessments made against each state department or agency using said building until said bonds, notes, warrants or other certificates of indebtedness provided for herein are repaid. Such departments or agencies shall pay biennially an amount bearing the same proportion to one-fifth of the total cost of said building as the office floor space allocated to that department or agency bears to the total office floor space in the building.

Section 8. Effective Date.
This act shall take effect upon approval.
Approved March 18, 1957.

CHAPTER 135

S. B. No. 62. (Passed March 13, 1957. In effect May 14, 1957.)

STATE PARK RECREATION COMMISSION

An Act Amending Sections 63-11-2, 63-11-3, and 63-11-8, Utah Code Annotated 1953, 63-11-10.2, and 63-11-10.3, Utah Code Annotated 1953, as Enacted by Chapter 122, Laws of Utah 1953, Relating to Park Commissioners; and Providing for a State Park and Recreation Commission, its Membership, Duties, and Powers; and Repealing Sections 63-11-4, 63-11-5, 63-11-6, 63-11-7, and 63-11-9, Utah Code Annotated 1953, Relating to the Engineer Commission and Historical Society Controlling Certain Public Areas.

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

Section 1. State Park and Recreation Commission Established.
There is established the state park and recreation commission.

Section 2. Purpose — Formulate and Effectuate Plan and Program for Acquisition, Development of Areas.

It is the intent of the Legislature that the state park and recreation commission shall formulate and put into execution a long range, comprehensive plan and program for the acquisition, planning, protection, operation, maintenance, development and wise use of areas of scenic beauty, recreational utility, historic, archeological or scientific interest, to the end that the health, happiness, recreational opportunities and wholesome enjoyment of life of the people may be further encouraged.

Section 3. Membership of Commission.

The state park and recreation commission shall be composed of a commission of twelve members. The following seven, by virtue of their offices, shall be ex-officio members of said commission, without vote, to wit: the director of the water and power board, the state forester, the director of the state road commission, the director of the Utah state historical society, the director of the Utah tourist and publicity council, the executive secretary of the state land board; and the director of the fish and game commission. The remaining five members, not more than three of whom shall be of the same political party, shall be appointed by the governor, by and with the advice and consent of the senate. They shall be selected because of their understanding of and demonstrated interest in parks and recreation. One of said members shall be appointed from the first or second judicial district, one from the third judicial district, one from the fourth or fifth judicial district, one from the sixth or seventh judicial district, and one member shall be appointed from the state at large.

Two of the five voting members shall be appointed for terms beginning July 1, 1957, and ending July 1, 1959, and three of the five voting members shall be appointed for terms beginning July 1, 1957, and ending July 1, 1961, in order that terms may be thereafter staggered. All subsequent appointments shall be for terms of four years. Vacancies occurring by reason of death, resignation or other causes, shall be filled by the appointment of another person by the governor, for the unexpired term of said person and shall be from one of the judicial districts from which said person was appointed, *provided* that the member at large appointed for said unexpired term can be from any part of the state.

Section 4. Per Diem.

Every member shall receive such per diem as may be approved by the board of examiners and shall be paid for his actual and necessary expenses incurred in performance of his duties.

Section 5. Meetings — When Held — Chairman — Selection — Quorum.

The first meeting of the commission shall be within sixty days from the effective date of this act, and thereafter the commission shall meet at least once each quarter. Special meetings of the commission may be held by a call of the chairman of the commission or by a majority of the voting members of the commission.

At the first meeting of the commission and annually thereafter the commission shall elect one of its voting members as chairman, who shall hold office for a term of one year and until his successor is elected.

Should a vacancy occur in the office of chairman, the commission shall appoint to fill such vacancy one of the voting members of said commission for the remainder of the term.

Three voting members of the commission shall constitute a quorum for the transaction of business.

Section 6. Powers.

The commission shall have power to:

1. acquire, designate, establish, plan, operate, control, develop and maintain all state parks, monuments and state recreation areas heretofore and hereafter established, acquired or designated;

2. to acquire, designate, develop, control, regulate and maintain state road side parks;

3. to determine the policies and develop the program best designed to accomplish the objectives and purposes set out in this act;

4. to choose the park directors;

5. to make and enforce rules and regulations for the governing of its own employees, and especially

6. for the protection, care, development, and use of the areas administered by it.

The commission shall have power to acquire real and personal property in the name of the commission by all legal and proper means, including purchase, gifts, devise, eminent domain, lease, designation of state land, exchange, or otherwise. "Real property" as used herein includes land under water as well as upland and all other property commonly or legally defined as real property. In acquiring any real or personal property, or in establishing or designating any area as herein authorized, the credit of the state shall not be pledged without the consent of the legislature.

The commission shall have power to protect state parks and property controlled or administered by it from misuse or damage and to preserve the peace within state parks and on property controlled or administered by it. The officers and administrators of the commission and such other persons as the commission may designate shall have the same power and shall follow the same procedure in making arrests and the handling of prisoners and in the general enforcement of this act as other peace officers.

The state department of fish and game shall retain the power and jurisdiction conferred upon it by law within state parks and on property controlled by the state park and recreation commission with reference to fish and game, subject to such reasonable rules and regulations as the state park and recreation commission may make to insure the accomplishment of the objectives and purposes of this Act.

The commission shall permit multiple use of state parks and property controlled by it for such purposes as grazing, fish and game, mining, development and utilization of water and other natural resources, and other uses, subject to such reasonable rules and regulations as the commission may make to insure the accomplishment of the objectives and purposes of this act.

Before acquiring any real property, the commission shall notify the county commissioners of the county where such property is situated of its intention to acquire the same, and if the county commissioners so request within ten days of receipt of said notice, the commission shall

hold a public hearing in said county concerning said matter.

Acceptance of gifts or devises of land or other property shall be in the discretion of the commission.

Acquisition of property by eminent domain shall be in the manner authorized by Chapter 34, Title 78, Utah Code Annotated 1953, and all acts amendatory thereto.

The commission shall have authority to make charges for special services, the income from which shall be available for park and recreation purposes. The commission shall further have authority to conduct and operate such services as are necessary for the comfort and convenience of the public.

The commission is empowered to lease or rent concessions of all lawful kinds and nature in state parks and property administered by it to persons, partnerships and corporations for a valuable consideration upon such terms and conditions as the commission deems fit and proper, *provided,* no concessionaire shall be permitted to dominate any park operation.

The commission is authorized and instructed to proceed without delay to negotiate with the Federal Government concerning the Weber Basin and other recreation projects. The commission, in connection with the State Land Board, is encouraged to make exchanges of state lands wherever the same can be done to advantage and will help accomplish the objectives and purposes of this act.

Section 7. Director — Qualifications — Other Employees.

The commission is authorized to employ a director. The director shall be the administrative officer of the commission. He shall have demonstrated executive ability and actual experience and training in the conduct of park and recreational systems involving both physical development and program.

It shall be the duty of such park director, to enforce the rules and regulations of the commission and to perform such other duties as said commission may direct for the proper care and maintenance of any property under the jurisdiction of the commission and for the purpose of carrying out the provisions of this act.

The director shall employ such supervisors, administrators, and other personnel as needed, with the approval of the commission.

It shall be the duty of the director to formulate policies and development of a state-wide park system plan for consideration and adoption by the commission.

The director shall have the responsibility for: acquisition, planning, protection, development, operation, and maintenance of areas and facilities in such manner as may be authorized by the commission.

Section 8. Contracts Authorized.

The commission is authorized to enter into contracts and agreements with the government of the United States, or any duly authorized representative or agency thereof, or with any other department or agency of the State of Utah and semi-public organizations and with private individuals for the purposes of causing state parks and recreational grounds and the areas administered by the commission to be improved and maintained and for any other lawful purpose and for

those purposes it may contract to secure labor, quarters, materials, services or facilities thereof on such terms as the commission may approve. All departments, agencies, officers and employees of the state of Utah are authorized and directed to give to the commission such consultation and assistance as the commission may reasonably request.

Section 9. Construction of Roads in State Parks.

All roads connecting state parks with federal, state or county highways or city streets where the title thereto is in the state are parts of the state highway system and are to be maintained by the state. The state road commission is authorized to construct and maintain roads within state parks subject to approval of locations and design by the commission through its director.

Section 10. Sections Amended.

Section 63-11-2, 63-11-3 and 63-11-8, Utah Code Annotated 1953 and 63-11-10.2 and 63-11-10.3, Utah Code Annotated 1953, as enacted by Chapter 122, Laws of Utah are amended to read:

63-11-2. Protection of Relics and Scenic Features — Regulations — Permits for Removal.

Before any exploration or excavation in or on any prehistoric ruins, pictographs, hieroglyphs or any other ancient markings or writing or archaeological or paleontological deposit in Utah on any public lands, either state or federal, shall be undertaken, a permit shall be first obtained from the state park and recreation commission and from the board of county commissioners of the county wherein the same is to be undertaken. The state park and recreation commission is hereby authorized to promulgate and enforce such regulations as it may deem needful to protect from vandalism or injury the prehistoric ruins and relics and archaeological and paleontological deposits of the state, also all natural bridges and natural scenic features and formations. No person shall remove from the State of Utah any part of any such ruins or deposit except with the consent of the state park and recreation commission and of the board of county commissioners of the county wherein such ruins or deposits are found. Said commissions may require, as a condition to such consent, that such portion of such relics, materials, or deposit, as said commissions shall require, shall remain the property of the state of Utah or said county. Any person violating this act or the rules and regulations promulgated by the state park and recreation commission pursuant thereto shall be guilty of a misdemeanor and upon conviction thereof shall, in addition to any other penalties imposed, forfeit to the state all articles and materials discovered by or through his efforts.

63-11-3. Administration and Supervision of Historical Monuments by State Park and Recreation Commission.

The state park and recreation commission shall have the power and it shall be its duty to take administrative and supervisory control over the following historical monuments: namely, "This is the Place Monument" Site, Camp Floyd and Old State House at Fillmore. The commission may make expenditures for such maintenance and administration

from funds made available by appropriation or from other funds which are available to the commission.

63–11–8. Naming of Parks and Monuments.

The naming of parks and monuments designated in accordance with the provisions of this act shall be the duty of said state park and recreation commission; *provided,* that persons making gifts of areas so designated may name such park or monument with the approval of the commission.

63–11–10.1. Authority and Duties of Commission.

The state park and recreation commission, with the approval of the board of examiners, is authorized and directed to remove or have removed all homes within the area condemned for park purposes pursuant to section 63-11-10, and to dispose of the same by sale, or otherwise, or to make said homes, available for use by state agencies, if deemed practicable and in the best interest of the state. Upon removal of the same the state park and recreation commission is authorized and directed to restore the sites upon which the homes were located. Proceeds from the sale or other disposition of the houses shall be deposited with the state treasurer and placed to the credit of the reserve building fund.

63–11–10.2. Use of Waters of Wagner Spring by State Park and Recreation Commission.

The state park and recreation commission is authorized to use the waters from that certain spring, known as Wagner Spring, located on the park area, for any purposes connected with the upkeep and maintenance of the park, including the "This Is The Place" Monument within said park.

Section 11. Appropriation of Funds.

The legislature shall appropriate such funds as from time to time may be necessary to carry out the purposes of this act to the state park and recreation commission to be used by the commission in the administration of the powers and duties and in carrying out the objective and purposes prescribed herein.

Section 12. Constitutionality.

If any provision of this act is declared invalid, the remainder of the act shall not be affected thereby.

Section 13. Sections Repealed.

Sections 63-11-4, 63-11-5, 63-11-6, 63-11-7, and 63-11-9, Utah Code Annotated 1953 are repealed.

Approved March 19, 1957.

CHAPTER 136

H. B. No. 74. (Passed February 15, 1957. In effect May 14, 1957.)

STATE AGENCY FOR SURPLUS PROPERTY

An Act Relating to the State Agency for Surplus Property Amending Sections 63-17-2, 63-17-3, and 63-17-4, as Enacted by Chapter 40,

Laws of Utah 1953, Utah Code Annotated 1953, and by Adding a New Section, Pertaining to the Acquisition and Distribution of Real and Personal Property Obtained from the United States of America or Any of Its Departments by the State Agency for Surplus Property.

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

Section 1. Sections Amended.
Sections 63-17-2, 63-17-3 and 63-17-4 as enacted by Chapter 40, Laws of Utah 1953, Utah Code Annotated 1953, are amended to read:

63-17-2. Powers and Duties — Rules and Regulations — Advisory Boards or Committees — Personnel — Expenditures — Contracts — Clearing House of Information — Cooperation with United States.

(a) The state agency for surplus property is hereby authorized and empowered (1) to acquire from the United States of America under and in conformance with the provisions of Section 203 (j) of the Federal Property and Administrative Services Act of 1949, as amended, hereinafter referred to as the "act," such property, including equipment, materials, books, or other supplies under the control of any department or agency of the United States of America as may be useable and necessary for educational purposes, public health purposes or civil defense, including research for any such purpose, and for such other purposes as may now or hereafter be authorized by Federal law: (2) to warehouse such property; and (3) to distribute such property within the state to tax-supported medical institutions, hospitals, clinics, health centers, school systems, schools, colleges, and universities within the state, and to other non-profit medical institutions, hospitals, clinics, health centers, schools, colleges, and universities which have been held exempt from taxation under Section 501 (c) (3) of the United States Internal Revenue Code of 1954, to civil defense organizations of the state, or political subdivisions and instrumentalities thereof, which are established pursuant to state law, and to such other types of institutions or activities as may now be or thereafter become eligible under federal law to acquire such property.

(b) The state agency for surplus property is hereby authorized to receive applications from eligible health and educational institutions for the acquisition of federal surplus real property, investigate the same, obtain expression of views respecting such applications from the appropriate health or educational authorities of the state, make recommendations as to the need of such applicant for the property, the merits of its proposed program of utilization, the suitability of the property for such purposes, and otherwise assist in the processing of such applications for acquisition of real and related personal property of the United States under Section 203 (k) of the act.

(c) For the purpose of executing its authority under this act, the state agency for surplus property is authorized and empowered to adopt, amend, or rescind such rules and regulations and prescribe such requirements as may be deemed necessary; and take such other actions as are deemed necessary and suitable in the administration of this act,

to assure maximum utilization by and benefit to health, educational and civil defense institutions and organizations within the state from property distributed under this act.

(d) The state agency for surplus property is authorized and empowered to appoint advisory boards or committees, and to employ such personnel and to fix their compensation with the approval of the Department of Finance, and prescribe their duties, as are deemed necessary and suitable for the administration of this act. The positions of all personnel so employed shall be filled by persons selected and appointed on a nonpartisan merit basis.

(e) The state agency for surplus property is authorized and empowered to make such certifications, take such action, make such expenditures and enter into such contracts, agreements and undertakings for and in the name of the state including cooperative agreements with the federal agencies providing for utilization by and exchange between them of the property, facilities, personnel and services of each by the other, require such reports and make such investigations as may be required by law or regulation of the United States of America in connection with the disposal of real property and the receipt, warehousing, and distribution of personal property received by the state agency for surplus property from the United States of America.

(f) The state agency for surplus property is authorized and empowered to act as clearing house of information for the public and private nonprofit institutions, organizations and agencies referred to in subparagraph (a) of this section of this act and other institutions eligible to acquire federal surplus real property, to locate both real and personal property available for acquisition from the United States of America, to ascertain the terms and conditions under which such property may be obtained, to receive requests from the above mentioned institutions, organizations and agencies and to transmit to them all available information in reference to such property, and to aid and assist such institutions, organizations and agencies in every way possible in the consummation or acquisitions or transactions hereunder.

(g) The state agency for surplus property, in the administration of this act, shall cooperate to the fullest extent consistent with the provisions of the act, with the departments or agencies of the United States of America and shall file a state plan of operation, operate in accordance therewith, and take such action as may be necessary to meet the minimum standards prescribed in accordance with the act, and make such reports in such form and containing such information as the United States of America or any of its departments or agencies may from time to time require, and it shall comply with the laws of the United States of America and the rules and regulations of any of the departments or agencies of the United States of America governing the allocation, transfer, use, or accounting for, property donable or donated to the state.

63-17-3. Delegation of Authority by Commissioner — Bonds.

The commissioner may delegate to any employee of the state agency for surplus property such power and authority as he deems reasonable and proper for the effective administration of this act. The commissioner may in his discretion bond any person in the employ of the

state agency for surplus property, handling moneys, signing checks, or receiving or distributing property from the United States or receiving or distributing property from the United States under authority of this act.

63-17-4. Charges and Fees Assessed for Surplus Property.

Any charges made or fees assessed by the state agency for surplus property for the acquisition, warehousing, distribution, or transfer of any property of the United States of America for educational, public health or civil defense purposes, including research, shall be limited to those reasonably related to the costs of care and handling in respect to its acquisition, receipt, warehousing, distribution or transfer by the state agency for surplus property. The state agency may reduce or eliminate charges on property found not to be useable for the purpose for which procured. And, in the case of real property, such charges and fees shall be limited to the reasonable administrative costs of the state agency for surplus property incurred in effecting transfer.

Section 2. Section Enacted — Acquisition and Distribution of Real and Personal Property by State Agency.

A new section is enacted to read:

Any provision of law to the contrary notwithstanding, the governing board, or in case there be none the executive head, of any state department, instrumentality, or agency or of any city, county, school district or other political subdivision may by order or resolution confer upon any officer or employee thereof continuing authority from time to time to secure the transfer to it of surplus property through the Utah State Agency for Surplus Property under the provisions of section 203 (j) of the Federal Property and Administrative Services Act of 1949, as amended, and to obligate the state or political subdivision and its funds to the extent necessary to comply with the terms and conditions of such transfers. The authority conferred upon any such officer or employee by any such order or resolution shall remain in effect unless and until the order or resolution is duly revoked and written notice of such revocation shall have been received by Utah State Agency for Surplus Property.

Approved March 27, 1957.

STATE INSTITUTIONS

CHAPTER 137

H. B. No. 47. (Passed February 7, 1957. In effect May 14, 1957.)

CONSULTANT OF SIGHT PRESERVATION

An Act Relating to the Blind, Creating the Position of Consultant of Sight Conservation and Prevention of Blindness under the Utah Commission for the Blind, Prescribing the Powers and Duties Thereof, Authorizing the Salary of the Consultant to be Fixed by the Utah Commission for the Blind and Appropriating $16,000 from the General Fund to the Utah Commission for the Blind.

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

Section 1. Creation of Position Consultant of Sight Conservation.
There is created within the Utah Commission for the Blind the position of consultant of sight conservation and prevention of blindness.

Section 2. Powers and Duties.
The consultant of sight conservation and prevention of blindness shall have the following powers and duties: To give consultative service on medical and surgical eye care to the public welfare department and other related agencies as well as to all lay organizations. He shall assist in the organization and supervision of medical and surgical eye care programs for the blind, including clinics throughout the state. He shall work with lay organizations in educating the public in matters of sight conservation.

Section 3. Compensation of Consultant — How Fixed.
The compensation of the consultant of sight conservation and prevention of blindness shall be fixed by the Utah Commission for the Blind.

Section 4. Appropriation.
There is appropriated from the general fund sixteen thousand dollars to carry forward the program through the period beginning July 1, 1957 to June 30, 1959.
Approved February 19, 1957.

CHAPTER 138

H. B. No. 45. (Passed March 9, 1957. In effect May 14, 1957.)

REVOLVING FUND FOR PURCHASE OF MATERIALS

An Act Relating to the Blind Establishing a Revolving Fund and Appropriating $12,000.00 for the Utah Commission for the Blind to Expedite the Purchase of Raw Materials and Payment of Wages to Shop Employees of the Ogden Workshop for the Blind.

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

Revolving Fund and Appropriation.
There is hereby appropriated to the Utah commission for the blind the sum of $12,000.00 to be used by the commission as a revolving fund for the purchase of raw materials for manufacture of products by the commission and to pay the wages of producing employees of the Ogden workshop for the blind. All fees received by the commission for sales and services shall be recovered into the revolving fund and all withdrawals therefrom shall be authorized by the appropriate officials of the commission and shall be substantiated by proper vouchers and supporting receipts. The revolving fund and all credits accruing thereto shall not revert to the general fund at the close of the biennium but shall serve as a continuous fund for the financial maintenance of the producing functions of the commission at the Ogden workshop for the blind.
Approved March 14, 1957.

CHAPTER 139

H. B. 173. (Passed March 13, 1957. In effect May 14, 1957.)

STATE FAIR ASSOCIATION PURCHASE AND FENCING LANDS

An Act Appropriating $92,453.00 from the General Fund to the Utah State Fair Association for the Purchase and Fencing of Certain Lands Essential to the Future Growth and Development of the State Fair Grounds.

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

Section 1. Appropriation to Utah State Fair Association.

There is hereby appropriated to the Utah state fair association from the general fund $92,453.00 for the purpose of purchasing and fencing of lands contiguous to, and essential in the future growth and development of the state fair grounds; $85,000.00 to be used to purchase the lands, described as follows:

Parcel "A" —

Beginning at the Southeast Corner of Lot 1, Block 1, Jordan Plat "A," said point being on the North line of North Temple Street South 89° 58′ 38″ West and North 0° 00′ 55″ West 66.0 feet from a City Monument at the intersection of North Temple and Eleventh West Streets; and running thence South 89° 58′ 38″ West along aforementioned North line 111.76 feet; thence North 0° 00′ 55″ West 679 feet more or less to the West bank of the Jordan River; thence Southerly along said West bank 770 feet more or less to the North line of North Temple Street; thence South 89° 58′ 38″ West along said North line 153.24 feet to the point of beginning.

Parcel "B" —

Beginning at a point on the West bank of the Jordan River South 89° 58′ 38″ West 111.76 feet and North 0° 00′ 55″ West 679 feet more or less from the Southeast Corner of Lot 1, Block 1, Jordan Plat "A," and running thence South 89° 58′ 38″ West 457.26 feet; thence North 0° 00′ 55″ West 1264 feet more or less to the South bank of the Jordan River; thence Easterly and Southerly along the South and West Bank of Jordan River 1625 feet more or less to the point of beginning.

Together with a right-of-way over the following: Beginning at a point on the West bank of the Jordan River South 89° 58′ 38″ West 111.76 feet and North 0° 00′ 55″ West 679 feet more or less from the Southeast Corner of Lot 1, Block 1, Jordan Plat "A," and running thence South 89° 58′ 38″ West 70.29 feet; thence South 44° 40′ East 100.01 feet; thence North 0° 00′ 55″ West 71.16 feet to the point of beginning. The above right-of-way is given to allow for a 50 foot Access between parcels "A" and "B," parallel to the Jordan River.

The remainder, $7,453.00, shall be used for the construction of a six foot high chain link fence on the South, West and North boundaries of the above described lands.

Approved March 26, 1957.

CHAPTER 140

H. B. No. 224. (Passed March 13, 1957. In effect May 14, 1957.)

HISTORICAL SOCIETY — GRAVES REGISTRATION

An Act Relating to State Historical Society Providing for the Transfer of the Graves Registration and Marking Division of the Adjutant General's Office to the Utah State Historical Society; Establishing the Military Records Section of the Utah State Archives, and Repealing all Statutes in Conflict with this Act.

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

Section 1.

The function, powers, and duties of the Veterans Graves registration and Marking division of the Adjutant General's Office shall be transferred to the Utah State Historical Society, and shall become the Military Records section of the Utah State Archives.

Section 2.

It shall be the duty of the Military Records section to collect and maintain a record of all veterans of the United States Armed Forces who are buried in Utah and aid in placing a headstone or marker at the head of any veterans unmarked grave. The Military Records section shall collect and preserve all other military records pertaining to the State of Utah which are available to the Utah State Archives.

Section 3.

The director of the Utah State Historical Society shall supervise and carry out the provisions of this act, and all funds shall be expended at his direction.

Approved March 22, 1957.

CHAPTER 141

H. B. No. 120. (Passed March 13, 1957. In effect May 14, 1957.)

HISTORICAL SOCIETY — POWERS AND RESPONSIBILITY

An Act Relating to the Utah State Historical Society and the Utah State Archives; Providing for the Repeal of Title 64, Chapter 5, Utah Code Annotated 1953, and the Definition of the Powers and Responsibilities of the Utah State Historical Society.

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

Section 1. Title of Act.

This act shall be known and may be cited as the Utah State Historical Society and Utah State Archives Act.

Section 2. Purpose of Act.

In enacting this act, it is the purpose of the Legislature to continue the Utah state historical society as the official historical and archival agency of the State of Utah.

Section 3. Duties and Objectives.

The duties and objectives of the Utah state historical society shall be the stimulation of research, study, and activity in the fields of Utah

and related history; the maintenance of a specialized history library; the marking and preservation of historic sites, areas, and remains; the collection, preservation, and administration of historical records, public archives, and other relics relating to the history of Utah; the editing and publication of historical records and public archives; and the improvement of standards for the making, care, and administration of public archives in Utah.

Section 4. Governing Body to be Board of Trustees—Composition—Quorum—Expenses

The governing body of the Utah state historical society shall be a board of trustees consisting of eleven persons, ten of whom shall be appointed by the governor, subject to the approval of the Senate. One member of the board of trustees shall be the secretary of state, the other members shall be appointed for terms of four years and shall serve until their successors are appointed and qualified. The board of trustees shall choose a president and a vice president from its own members, and shall make rules and regulations for its own government and the administration of the society. Six members of the board of trustees shall constitute a quorum for the transaction of business. Members of the board of trustees shall serve without compensation, but they shall be allowed their actual expenses incurred in the performance of their official duties. Such expenses shall be paid by the state treasurer on warrant of the department of finance out of money in the treasury appropriated for that purpose.

Section 5. Director to be Appointed — Qualifications—Duties.

The board of trustees shall appoint a director, who at the time of his appointment must have the qualification of special training in historical work and administration. The director shall serve as secretary of the board of trustees and and shall manage and administer the Utah State historical society, subject to law and the policy of the board of trustees. He shall, with consent of the board of trustees, appoint employees of the society, perform all assigned duties, and administer and develop the society so as to achieve the purposes of its creation. The director and employees shall receive as compensation a salary recommended by the board of trustees and shall be paid monthly by the state treasurer on warrant of the department of finance out of money in the treasury appropriated for that purpose.

Section 6. Authority — Publication of Historical Magazine — Other Documents.

The Utah state historical society is authorized to compile and publish an historical magazine to be furnished to its supporting members in accordance with membership subscription or to be sold independently of membership, and to publish and sell other books, documents, and microfilms at reasonable prices to be approved by the board of trustees of the said society. Proceeds from such sales shall be covered into the treasury of said society.

Section 7. Solicitation of Memberships.

The said society is authorized to solicit memberships from persons interested in the work of the society and to make a charge for such

memberships commensurate with the advantages of membership and the needs of the society. The said society is further authorized to receive bequests, gifts, and endowments of money or property; and the board of trustees is authorized to deposit such funds with the state treasurer, or to invest funds with the approval of the state finance commission, and to use monies or properties received by the society in accordance with directions of the donor. Unless the donor directs otherwise such funds and property shall remain intact, the society using the interest thereon or annual proceeds therefrom for current expenses, and such funds and property shall not lapse or otherwise become part of the state general fund. The board of trustees of said society shall keep a correct account of funds and property received, held, or disbursed by it, and shall make reports to the governor as in the case of other state institutions.

Section 8. Utah State Archives to be Division of Utah State Historical Society—Custodian of Non-Current Records.

A division of the Utah state historical society shall be the Utah state archives, administered by the state archivist, who shall have special qualifications of an archivist. The state archivist shall be the official custodian of all noncurrent public records of permanent and historic value which are not required by law to remain in custody of the agency of origin. Unless otherwise directed by law, all public archives of any public office in the state shall, upon the termination of the existence and functions of that office, be transferred to the custody of the state archives. For the purpose of this act, public records, comprise all written or printed books, papers, letters, documents, maps, plans, photographs, sound recordings, and other records made or received in pursuance of state law or in connection with the transaction of public business by the public offices, agencies, and institutions of the state and its counties, municipalities, and other subdivisions of government. All such public records made or received by the public offices, agencies, and institutions of the state and its counties, municipalities and other political subdivisions are state records. The body of such public records accumulated and preserved in official custody for record purposes by any office, agency, or institution or its legal successor constitutes its archives. Public offices and public officers are, respectively, the offices and officers of any court, department, board, commission, institution, or other agency of the state government or of any political subdivision of the state.

Section 9. Accessibility of Records—Copies.

The state archivist shall keep the public archives in his custody in such arrangement and condition as to make them accessible for convenient use and shall permit them to be inspected, examined, abstracted or copied at reasonable times under his supervision by any person. He shall upon the demand of any person furnish certified copies thereof on payment in advance of reasonable fees as determined by the board of trustees. Copies of public records transferred in pursuance of law from the office of origin to the custody of the state archives, when certified by the archivist under the seal of the Utah state archives, shall have the same legal force and effect as if certified by their original custodian.

Section 10. Right of Access to Public Records Right of Archivist.

The state archivist, in person or through a deputy, shall have the right

of reasonable access to and examination of all public archives in Utah, with a view to securing their safety and preservation. The state attorney general, on behalf of the State of Utah or the Utah state archives, may replevin any public records which are not adequately protected or cared for or which were formerly part of the records or files of any public office of the Territory or State of Utah.

Section 11. Disposition of Records—Procedure.

Every custodian of public records of the State of Utah who has in his (or her) custody public records deemed by said custodian to be unnecessary for the transaction of the business of said office, shall consult with the state archivist, the state auditor, and the attorney general of the State of Utah, and such four officers shall determine whether the records in question are of legal, administrative, or historic value. Those records unanimously determined to be of no legal, administrative, or historic value shall be disposed of by such method as such four officers may specify. A list of all records so disposed of, together with a statement certifying compliance with this act, signed by such four officers shall be filed and preserved in the office from which the records were drawn and in the files of each of the other officers who are signatories to the certificate. Public records in the custody of the state archives may be disposed of upon a similar determination by the state auditor, attorney general, state archivist, and head of the agency from which the records were received, or its legal successor. And the public custodian having original custody of records so deemed to be of no further value, shall before any such records are destroyed, make a complete list or inventory of same, and attach thereto his certificate that said records so listed have no further administrative value in his office.

Section 12. Records May be Photographed—Micrographed or Produced on Film Use as Evidence.

Any public officer of the State of Utah or any county, municipality, or other subdivisions of government may cause any and all records, papers or documents kept by him to be photographed, micrographed, or reproduced on film. Such photographic film shall comply with the minimum standards of quality approved for permanent photographic records by the National Bureau of Standards, and the device used to reproduce such records on such film shall be one which accurately reproduces the original thereon in all details. Such photographs, microphotographs, or photographic film shall be deemed to be original records for all purposes, including introduction in evidence in all courts or administrative agencies. A transcript, exemplification, or certified copy thereof shall, for all purposes recited herein, be deemed to be a transcript, exemplification, or certified copy of the original. Whenever such photographs, microphotographs, or reproductions on film property certified shall be placed in conveniently accessible files and provisions made for preserving, examining, and using the same, any such public officer may cause the original records from which the photographs or microphotographs have been made, or any part thereof, to be disposed of according to methods prescribed by Sections 8, 9, 10, and 11 of this act. Such copies shall be certified by their custodian as true copies of the originals before the originals are destroyed, and copies so certified shall have the same force

and effect as the originals.

Section 13. Preservation of Public Records.
With a view to the preservation of public records, the state purchasing agent shall consult with the state archivist to assure that all paper, ink, and other materials used in public offices in the state for the purposes of permanent records shall be of durable quality.

Section 14. Violation—Misdemeanor.
Any person who violates Sections 8, 11, and 12 of this act shall be guilty of a misdemeanor.

Section 15. Chapter Repealed.
Title 64, Chapter 5, Utah Code Annotated 1953, is hereby repealed.

Section 16. Constitutionality.
If any provision of this act, or the application of any provision to any person or circumstance, is held invalid, the remainder of this act shall not be affected thereby.
Approved March 22, 1957.

CHAPTER 142

S. B. No. 47. (Passed February 28, 1957. In effect May 14, 1957.)

STATE INDUSTRIAL SCHOOL—POWERS AND DUTIES

An Act Amending Section 64-6-3, Utah Code Annotated 1953, Relating to the General Powers and Duties of the Welfare Commission in its Supervisory Authority Over the State Industrial School and Granting Authority to the Commission to Place Juvenile Delinquents in Other State or Federal Institutions.

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

Section 1. Section Amended.
Section 64-6-3 is amended to read:

64-6-3. Public Welfare Commission—Power to Contract—Sue and be Sued—General Powers and Duties—Industrial School—Authority to Place Juvenile Delinquents in Other State or Federal Institutions.
With the approval of the governor and the department of finance, the public welfare commission may contract and be contracted with, and sue and be sued in all matters concerning the school, and may contract to receive or place for care juvenile charges from or with the United States department of justice, other states of the United States or other public or private agencies on such terms and under such conditions as may be determined by the commission with the approval of the governor and the department of finance.

It may take, in the name of the state, and hold in trust for the school, realty or personalty, and, with the approval of the departments of finance and engineering, may convert property which is not suitable for the uses of the school into property which is suitable.

It may adopt rules for the regulation of all the concerns of the institution not inconsistent with the law. It shall see that the affairs of the institution are conducted in accordance with the requirements of the law, and that strict discipline is maintained therein; it shall provide employment and instruction for the inmates, and appoint a steward and teachers, and such other officers as in its judgment the wants of the institution may require, and prescribe their duties; and shall exercise a vigilant supervision over the institution, its affairs and inmates; and it may remove any officer at its pleasure, and fix the salaries to be paid to the officers, according to standards established by the department of finance.

Approved March 11, 1957.

CHAPTER 143

S. B. No. 226. (Passed March 9, 1957. In effect May 14, 1957.)

STATE PRISON—MANUFACTURE AND SALE OF PRISON MADE GOODS

An Act Relating to the Manufacture and Sale of Prison Made Goods, Fixing the Price Thereof, Authorizing Certain Public Supported Agencies to Purchase Said Goods, and Providing for a Revolving Fund.

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

Section 1. Manufacture and Sale of Prison Made Goods Authorized to Public Supported Agencies—Revolving Fund.

Notwithstanding the other provisions of law, the board of corrections is authorized and empowered to cause the prisoners in the state prison to be employed in the production, manufacture and repair of such articles, materials and supplies as are now or may hereafter be needed by the state government or any political subdivision thereof or that may be needed for any state, county, district, municipal, school or other public use, or that may be needed by any public institution of the state or any political subdivision thereof.

Section 2. Board of Corrections to Determine Articles to be Manufactured or Produced.

The board of corrections shall from time to time determine the kind, quality and quantity of the several articles, materials and supplies to be thus produced, manufactured or repaired. The board shall also from time to time determine the price at which such articles, materials or supplies shall be sold, which price shall be as near the prevailing market price as possible.

Section 3. Purchase by State Agencies.

Notwithstanding any other provisions of law, all articles, materials and supplies herein authorized to be produced, manufactured or repaired under the provisions of this act must be purchased from the state prison of this state by the agencies herein mentioned and at the prices fixed and in the manner herein provided, except such articles, materials and supplies as the state prison is unable to furnish.

Section 4. Revolving Fund.

The board of corrections shall make application to the board of examiners for a revolving fund to be established and used for the purchase of supplies and materials as necessary in the production, manufacture and repair of articles, materials and supplies authorized by this act. The board of examiners shall allow such revolving fund from monies in the general fund and the receipts from the sale of articles, materials or supplies produced, manufactured or repaired shall be credited to the revolving fund which shall be maintained intact. Any profits accruing to the fund shall be closed out to the state general fund at the close of each biennium. Said fund shall be audited by the state auditor.

Approved March 14, 1957.

STATE LANDS

CHAPTER 144

S. B. No. 267. (Passed March 14, 1957. In effect May 14, 1957.)

STATE LAND BOARD—SALE OF LANDS IN UINTAH AND OURAY RESERVATIONS

An Act Directing the State Land Board to Sell Lands of the State of Utah Within the Uintah and Ouray Reservation, Utah.

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

Section 1. Lands to be Sold by State Land Board—Description.

The state land board shall sell to the Ute Indian Tribe of the Uintah and Ouray Reservation, Utah tracts of land owned by the State of Utah and within the exterior boundary of the Uintah and Ouray Reservation, Utah, described as follows:

Township	Range	Section	Description	Acres
8S	20E	32	Lots 1, 2 and 3	9.72
		36	NW¼	160.00
8S	21E	13	E½ SE¼	80.00
8S	21E	16	All	640.00
		26	SE¼ SE¼	40.00
		32	N½; N½S½	480.00
		36	N½; N½SW¼	400.00
8S	22E	31	Lot 3, NE¼ SW¼, SE¼	239.75
		16	NW¼ SE¼ SE¼ SE¼	80.00
8S	22E	32	All	640.00
9S	20E	2	N½SW¼; SE¼; SW¼; SE¼	280.00
		32	All	640.00
9S	21E	2	S½	320.00
9S	21E	16	NE¼, S½	480.00
9S	22E	6	NE¼ SE¼	40.00
		7	NW¼ NE¼, SE¼ NE¼	80.00
		16	All	640.00
10S	20E	16	N½ NE¼, NE¼ NW¼ W½ SW¼, SE¼ SW¼	240.00

		32	All	640.00
10S	19E	36	SE¼	160.00
11S	19E	36	All	640.00
12S	19E	2	All	641.92
		36	All	640.00
13S	19E	2	All	642.92
13S	19E	16	NE¼ NE¼	40.00
		36	All	640.00
13S	20E	32	All	640.00
14S	19E	2	All	641.00
		7	NE¼ NE¼	40.00
		16	All	640.00
		29	NW¼ SE¼	40.00
		32	All	640.00
14S	19E	36	Lots 1, 2, 4, 5 and 6; NE¼; E½ SE¼; W½SW¼; N½ NW¼; SW¼ NW¼	594.49
14S	20E	16	All	640.00
		32	All	640.00
		36	All	640.00
14S	21E	32	SW¼ NW¼; NW¼ SW¼; E½E½; SW¼ NE¼; SW¼ SE¼; N½ NW¼	400.00
15S	18E	2	All Fractional	649.40
		16	All	640.00
		32	All	640.00
		36	All	640.00
15S	19E	2	All	638.56
		16	All	640.00
		32	All	640.00
		36	All	640.00
15S	20E	2	All	640.80
		16	All	640.00
		32	All	640.00
		36	All	640.00
15½S	21E	32	All	448.22
16S	18E	2	All	296.76
		16	All	640.00
		32	All	503.88
		36	All	640.00
16S	19E	2	All	1,041.20
		16	All	640.00
		32	All	640.00
		36	All	640.00
16S	20E	2	All	1,044.88
		16	All	640.00
		32	All	640.00
17S	17E	2	Lots 1, 2, 3, 4, S½NW¼, S½	561.24
		16	Lots 1,6,7,8,9, and 12, SE¼	321.06

		32	Lots 1,2,5,6,10 and 11, E½E½; NW¼ NE¼, SW¼ SE¼	424.17
17S	19E	2	All	638.32
		32	All	640.00
		36	All	640.00
17S	20E	2	All	640.16
		16	NE¼, SW¼	320.00
		32	NE¼, SW¼	320.00
18S	17E	2	All	642.76
		16	All	640.00
18S	19E	10	SE¼ NW¼	40.00
		16	NW¼NW¼, E½, NE¼, NE¼ SE¼	160.00
		36	All	640.00
18S	20E	32	All	640.00
19S	20E	16	All	640.00
			Total Acreage	38,501.20

Section 2. Conveyances—Reservations Therein.
All conveyances pursuant to this act shall be to the United States of America in trust for the Ute Indian Tribe of the Uintah and Ouray Reservation, Utah, and shall reserve to the State of Utah all minerals within or underlying the lands conveyed, and shall also reserve the right of ingress and egress to prospect for and mine such minerals.

Section 3. Consideration for Sale.
The lands sold pursuant to this act shall be sold for a consideration of $2.50 per acre, and the consideration shall be paid in advance of the conveyance of the lands.
Approved March 22, 1957.

CHAPTER 145

S. B. No. 173. (Passed March 12, 1957. In effect March 26, 1957.)

STATE LAND BOARD REORGANIZATION

An Act Amending Sections 65-1-1 and 65-1-3, Utah Code Annotated 1953, and 65-1-3.1 as Enacted by Chapter 140, Laws of Utah 1955, Relating to the State Land Board; Providing that the State Land Board be Separated from the Department of Finance; an Emergency Clause.

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

Section 1. Sections Amended.
Section 65-1-1 and 65-1-3, Utah Code Annotated 1953, and 65-1-3.1, Utah Code Annotated 1953, as enacted by Chapter 140, Laws of Utah 1955, are amended to read:

65-1-1. Membership of Land Board — Appointment — Per Diem.
The state land board shall be composed of five members not more

than three of whom shall belong to the same political party appointed by the governor, with the advice and consent of the senate for a term of six years, except that two of the first board members appointed shall be designated to serve for only two years, and one of the first board members appointed shall be designated to serve for only four years in order that thereafter the terms shall be staggered, with the terms effective April 1 of the odd numbered years. For the purpose of appointment to the land board, the state shall be divided into five districts. District one shall be composed of Wayne, Emery, Grand, and San Juan counties. District two shall be composed of Carbon, Uintah, Daggett, Duchesne, Wasatch, and Summit counties. District three shall be composed of Box Elder, Weber, Rich, Morgan, Davis, and Cache counties. District four shall be composed of Salt Lake, Tooele, Utah and Juab counties. District five shall be composed of Sanpete, Millard, Beaver, Sevier, Piute, Garfield, Iron, Washington, and Kane counties. The governor shall make appointments to the land board in such a manner that each district will have one resident on the board. Each member appointed shall receive a per diem remuneration to be determined by the board of examiners for each day spent in the performance of official duties, and shall be reimbursed for all necessary expenses incurred while performing such official duties including travel expenses. One member of the board shall be designated by the governor as chairman.

65–1–3. Land Board Employees — Salaries — Quorum.

The land board shall employ such clerical and other employees as shall be necessary for the efficient and economical performance of the duties and functions of the board, and fix their salaries in accordance with salary standards adopted for state personnel. Three members of the board shall constitute a quorum for the transaction of business.

65–1–3.1. Director of Land Board—Appointment—Term — Removal — Duties.

The land board, with the approval of the governor, shall appoint a director for a six-year term, or until his successor has been appointed and qualified, who may be removed for cause by the board after holding a public hearing. The director must be a qualified executive in land management. The director under the supervision of the land board shall administer all land laws within the jurisdiction of the land board and perform such other duties as may be provided for by law. Unless otherwise provided by law or authorized by the land board, he shall not hold any other public office, nor any office in a political party or organization and shall devote his entire time to the service of the state in the discharge of his official duties. The director shall receive as salary a sum of money to be determined by the land board. He shall furnish a bond in such amount and kind as shall be determined by the commission of finance, which said bond shall not be less than $25,000, and conditioned that he will faithfully perform his duties, safely keep and account for all funds, securities, documents, and papers entrusted to his care, and upon expiration of his office deliver all funds, securities, documents and records of his office to his successor.

Section 2. Effective Date.
This act shall take effect upon approval.
Approved March 26, 1957.

STATE OFFICERS AND EMPLOYEES

CHAPTER 146

S. B. No. 251. (Passed March 14, 1957. In effect May 14, 1957.)

SALARIES OF EXECUTIVE OFFICERS

An Act Amending Section 67-8-1, Utah Code Annotated 1953, as Amended by Chapter 126, Laws of Utah 1953, Relating to Changing and Fixing the Annual Salaries of the Governor, Secretary of State, State Treasurer, State Auditor and Attorney General.

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

Section 1. Section Amended.
Section 67-8-1, Utah Code Annotated 1953, as amended by Chapter 126, Laws of Utah 1953, is amended to read:

67-8-1. Salaries of State Officers.
The annual salaries of the following state officers are fixed as follows: governor, $12,000; secretary of state, $9,500; state treasurer, $7,500; state auditor, $7,500; attorney general, $10,000.
Approved March 20, 1957.

CHAPTER 147

S. B. No. 215. (Passed March 12, 1957. In effect May 14, 1957.)

SALARIES OF CLERK SUPREME COURT

An Act Amending Section 67-8-2, Utah Code Annotated 1953, as Amended by Chapter 126, Laws of Utah 1953, Increasing the Annual Salary of Clerk of the Supreme Court.

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

Section 1. Section Amended.
Sec. 67-8-2, Utah Code Annotated 1953, as amended by Chapter 126, Laws of Utah 1953, is amended to read:

67-8-2. Salaries of State Officers.
The annual salaries of the following state officers are fixed as follows: Clerk of the Supreme Court and ex-officio librarian, $6,000; assistant librarian, state law library, $2,400; reporter of the decisions of the Supreme Court, $1,500.

Approved March 20, 1957.

CHAPTER 148

S. B. No. 100. (Passed March 13, 1957. In effect May 14, 1957.)

SALARIES OF JUSTICES SUPREME COURT

An Act Amending Section 67-8-3, Utah Code Annotated 1953, as Amended by Chapter 126, Laws of Utah 1953, and by Chapter 137, Laws of Utah 1955, Increasing the Annual Salaries of the Justices of the Supreme Court.

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

Section 1. Section Amended.

Sec. 67-8-3, Utah Code Annotated 1953, as amended by Chapter 126, Laws of Utah 1953, and by Chapter 137, Laws of Utah 1955, is amended to read:

67-8-3. Salaries of State Officers — Supreme Court Justices.

The annual salaries of the justices of the Supreme Court are fixed at $12,000. No mileage or expenses shall be allowed.

Approved March 20, 1957.

CHAPTER 149

S. B. No. 99. (Passed March 13, 1957. In effect May 14, 1957.)

SALARIES OF DISTRICT JUDGES

An Act Amending Section 67-8-4, Utah Code Annotated 1953, as Amended by Chapter 126, Laws of Utah 1953 and by Chapter 138, Laws of Utah 1955, Increasing the Annual Salaries of Judges of District Courts.

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

Section 1. Section Amended.

Sec. 67-8-4, Utah Code Annotated 1953, as amended by Chapter 126, Laws of Utah 1953 and by Chapter 138, Laws of Utah 1955, is amended to read:

67-8-4. District Judges — Term of Office — Salary — Mileage and Expenses.

The term of office of the judges of district courts shall be six years, and the annual salary of each judge shall be $10,000. No mileage or expenses shall be allowed, except that whenever any district judge shall hold court in a county outside of the county in which he resides, he shall be entitled to his actual and necessary expenses incurred thereby.

Approved March 20, 1957.

CHAPTER 150

S. B. No. 25. (Passed February 12, 1957. In effect May 14, 1957.)

SALARIES OF DISTRICT ATTORNEYS

An Act Amending Section 67-8-5, Utah Code Annotated 1953, as Amended by Chapter 139, Laws of Utah 1955, Relating to Annual Salaries for the District Attorneys of the Various Judicial Districts; and Providing an Increase.

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

Section 1. Section Amended.
Section 67-8-5, Utah Code Annotated 1953, is amended to read:

67–8–5. District Attorneys — Salaries.
The annual salaries of the district attorneys are fixed as follows: in the First Judicial District, $3600; in the Second Judicial District, $5400; in the Third Judicial District, $6000; in the Fourth Judicial District, $5400; in the Fifth Judicial District, $3900; in the Sixth Judicial District, $3600; in the Seventh Judicial District, $4000.

Approved March 20, 1957.

CHAPTER 151

S. B. No. 8. (Passed January 30, 1957. In effect May 14, 1957.)

MILEAGE AND EXPENSE OF DISTRICT ATTORNEYS

An Act Repealing Section 67-8-6, Utah Code Annotated 1953, Relating to Mileage and Expense of District Attorneys.

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

Section 1. Section Repealed.
Section 67-8-6, Utah Code Annotated 1953, is repealed.

Approved February 6, 1957.

CHAPTER 152

S. B. No. 193. (Passed March 14, 1957. In effect May 14, 1957.)

SALARIES OF STATE OFFICERS

An Act Amending Section 67-8-9, Utah Code Annotated 1953, as Amended by Chapter 126, Laws of Utah 1953 and Chapter 140, Laws of Utah 1955, and Section 53-2-8, Utah Code Annotated 1953 as Amended by Chapter 80, Laws of Utah 1953, Relating to Salaries of State Officers; and Providing for Increases.

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

Section 1. Section Amended.

Section 67-8-9, Utah Code Annotated 1953, as amended by Chapter 126, Laws of Utah 1953 and Chapter 140, Laws of Utah 1955, is amended to read:

67–8–9. Salaries of State Officers.

On and after the first day of July, 1957 the salaries of the hereinafter designated state officers shall be as follows: Building commission superintendent of construction, $7,000 per year; state fish and game per year each; state engineer, $12,000 per year; members of the com- director, $7,000 per year; members of the industrial commission, $7,000 mission of finance, $7,000 per year each; members of the tax commission, $7,000 per year each; members of the public welfare commission, $7,000 per year each; members of the business regulation commission, $7,000 per year each; bank commissioner, as provided in Section 7-1-1; members of the liquor control commission, $7,000 per year each; members of the state board of agriculture, $7,000 per year each. Provided that the salaries of the chairman of each of the full time commissions shall be $7,300 per year.

Section 2. Section Amended.

Section 53-2-8, Utah Code Annotated 1953 as amended by Chapter 80, Laws of Utah 1953, is amended to read:

53–2–8. Chairman and Vice-Chairman — Salary State Superintendent of Public Instruction — Other Salaries — How Fixed.

The state board of education shall elect from its members a chairman and vice-chairman. Such officers shall be elected or appointed at the first meeting of the board in February, 1952, and each year thereafter. The duties of these officers shall be determined by the board. The board shall also appoint a secretary of the board who shall serve at the pleasure of the board.

The state board of education shall appoint the state superintendent of public instruction, who shall be the executive officer of the board and who shall receive for his services $10,000 per annum.

The board may appoint such assistant superintendents, directors, supervisors, assistants, clerical workers, and other employees, as in the judgment of the board may be necessary to the proper administration and supervision of the public school system. The salaries of such assistant superintendent, directors, supervisors, assistants, clerical workers and other employees, shall be fixed by the board and shall be paid from money appropriated for that purpose.

Approved March 16, 1957.

CHAPTER 153

S. B. No. 236. (Passed March 11, 1957. In effect May 14, 1957.)

REPORTS OF STATE OFFICERS

An Act Amending Sections 67-10-1, 67-10-2, 67-10-3, 67-10-4, and 64-1-7, Utah Code Annotated 1953, Relating to the Preparation and Publishing of Reports by the Secretary of State to be Submitted to the Legislature, the Governor and for Other Purposes.

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

Section 1. Sections Amended.

Sections 67-10-1, 67-10-2, 67-10-3, 67-10-4 and 64-1-7, Utah Code Annotated 1953, are amended to read:

which all appropriations for their respective departments and institutions

Excepting the governor and the state auditor, all state officers, state boards and commissions, and the officers of all state institutions, to whom and for which appropriations are made, shall submit to the secretary of state a detailed statement, under oath, of the manner in which all appropriations for their respective departments and institutions have been expended.

67-10-2. Accounts Closed at End of Fiscal Year — Compile Reports.

All officers who are required by law to report annually or biennially to the legislature or governor shall close their accounts at the end of the fiscal year, and as soon thereafter as practicable shall prepare and compile the material for their respective reports.

67-10-3. Statements of Materials — When Due — Secretary of State to Print — Material Included — Excluded.

All statements and material intended for the use of the legislature, the governor or for other uses shall be transmitted by the respective officers to the secretary of state not later than the 1st day of October of each year; and the secretary of state shall cause the same to be edited with regards to contents, brevity and uniformity and he shall cause a digest of the same to be compiled into one volume to be printed and published for the use of the legislature, the governor, and for other essential purposes. The secretary of state shall determine the size and number of copies to be published for circulation and shall not include in the printed report financial data which is included in the state auditor's report prepared in accordance with section 67-3-1, Utah Code Annotated 1953.

67-10-4. Copies to Legislature — State Officers.

Upon the organization of the legislature the secretary of state shall transmit to the senate and house of representatives copies of his published report for the use of the members of the legislature. The secretary of state shall transmit, not later than December 15, his published report each year to the state officers, state boards, commissions and institutions in sufficient quantities to provide for the needs of such officers, boards, commissions and institutions and shall allocate the cost of editing, compiling, printing and publishing of his report among the various officers, boards, commissions and institutions included in the report.

64-1-7. Annual Report to Secretary of State — Contents — Edited and Published.

The governing board of each institution shall make annually to the secretary of state, not later than the 1st day of October of each year, a detailed statement of its important official acts, the growth and condition of the institution, the report of the chief executive officer thereof, a list of officials and their salaries, and an estimate of the

cash value of the real and personal property of the institution, or of the state in connection therewith, together with an inventory of the same. The statement shall be edited with regard to contents, brevity and uniformity and the secretary of state shall cause a digest of the same to be compiled and included in his published report as provided in Chapter 10, Title 67, Utah Code Annotated 1953 as amended, for the use of the legislature, the governor and for other essential purposes. The secretary of state shall determine the size and number of copies to be published for circulation and he shall not include in the published report financial data which is included in the state auditor's report prepared in accordance with section 67-3-1.

Approved March 15, 1957.

CHAPTER 154

H. B. 18. (Passed February 6, 1957. In effect February 13, 1957.)

GOVERNOR'S RESIDENCE — CONSTRUCTION

An Act Relating to the Construction of a Governor's Residence for the State of Utah; Providing that the State Building Board Shall Select a Site and Construct a Governor's Residence; Appropriating 200,000 Dollars from the General Fund for Such Purpose.

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

Section 1. Governor's Residence—Site—Construction.

As soon as possible, the state building board, subject to approval by the board of examiners and a committee consisting of the president of the Utah state senate, the speaker of the house of representatives, the minority floor leader of the state senate, and the minority floor leader of the house of representatives, shall:

(1) Select, and purchase if necessary, a site for a governor's residence for the State of Utah.

(2) Prepare or cause to be prepared plans for such a structure.

(3) Cause a governor's residence to be erected, furnished, and landscaped on the site selected.

(4) Have all other powers necessary to carry out the duties conferred by this section.

Section 2. Appropriation.

There is appropriated from the general fund of the State of Utah not otherwise appropriated the sum of 200,000 dollars, or such part thereof that is necessary, to the state building board to be used in defraying all the costs and expenses necessary to the construction and furnishing of a governor's residence for the State of Utah.

Section 3. Effective Date.

This act shall take effect upon approval.

Approved February 13, 1957.

STATUTES

CHAPTER 155

S. B. No. 152. (Passed March 11, 1957. In effect May 14, 1957.)

COMMISSION ON UNIFORM STATE LAWS

An Act Repealing Sections 68-4-2, 68-4-3 and 68-4-4, Utah Code Annotated 1953, and Section 68-4-1, Utah Code Annotated 1953, as Amended by Chapter 141, Laws of Utah 1955, Relating to Uniformity of Legislation and Providing for the Creation of a Commission on Uniform State Laws, Appointment, Terms and Duties of the Commissions, and Authorizing Appropriations; Savings Clause.

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

Section 1. Commission on Uniform State Laws Created.
A commission is hereby created, to be known as the "Commission on Uniform State Laws," which shall consist of three members of the Utah bar in good standing, any of whom may be members of the legislature at the time of their appointment, who shall be appointed by the governor by and with the consent of the senate.

Section 2. Terms of Commissioners.
The terms of the first commissioners appointed shall be as follows: one for two years, one for four years, and one for six years; thereafter the term of each commissioner appointed shall be for six years. The terms shall commence on July 1 of the year of appointment. Each commissioner shall serve until his successor is appointed. Upon the death, resignation, failure or refusal to serve of any commissioner, his office becomes vacant; and the governor shall, by and with the consent of the senate, make an appointment to fill the vacancy, such appointment to be for the unexpired term of the commissioner creating the vacancy.

Section 3. Meetings — Chairman — Secretary.
The commissioners shall meet at least once in two years and shall organize by the election of one of their number as chairman and another as secretary, who shall hold their respective offices for a term of two years and until their successors are elected.

Section 4. Duties.
It shall be the duty of said commission to examine the subjects upon which uniformity of legislation in the various states of the union is desirable but which are without the jurisdiction of the congress of the United States; to confer upon these matters with the commissioners appointed by other states for the same purpose; to consider and draft uniform and model laws to be submitted for approval and adoption by the several states; and generally to devise and recommend such other or further course of action as shall accomplish the purposes of this chapter. The commission shall report to the governor and the legislature at each regular session of said legislature an account of its transactions and its recommendations for legislation.

Section 5. Travel and Other Expenses only to be Paid — Appropriation.
No member of said commission shall receive any compensation for his services, but each member shall be paid from the state treasury the amount of his actual traveling and other necessary expenses incurred in the discharge of his official duties after an itemized and verified account thereof has been audited, approved and allowed by the board of examiners. Suitable appropriations shall be made by the legislature to the office of the attorney general, to be used to pay the necessary expenses of the commissioners and to make appropriate contribution on behalf of this state to the national conference of commissioners on uniform state laws. Said commissioners shall keep a full account of their expenditures in the discharge of their official duties and shall report the same to the office of the attorney general.

Section 6. Constitutionality.
If any portion of this act is for any reason held to be invalid by any court, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Section 7. Sections Repealed.
Sections 68-4-2, 68-4-3 and 68-4-4, Utah Code Annotated 1953, and Section 68-4-1, Utah Code Annotated 1953, as amended by Chapter 141, Laws of Utah 1955, are hereby repealed.
Approved March 15, 1957.

TRADE MARKS AND TRADE NAMES

CHAPTER 156

S. B. No. 46. (Passed February 15, 1957. In effect May 14, 1957.)

TRADE-MARKS—REGISTRATION

An Act Amending Title 70, Chapter III, Utah Code Annotated 1953 Supplement as Enacted by Chapter 159, Laws of Utah 1955, Providing for the Registration and Protection of Service Marks for Certain General Classes of Services.

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

Section 1. Sections Amended.
Sections 70-3-1 through 70-3-17, Utah Code Annotated 1953 Supplement as enacted by Chapter 159, Laws of Utah 1955, are amended to read:

70–3–1. Definitions.
(1) The term "trade-mark" as used herein means any word, name, mark, brand, symbol, emblem, stamp, imprint, or device or any combination thereof adopted and used by a person to identify goods made or sold by him and to distinguish them from goods made or sold by others.

(1.5) The term "service mark" as used herein means a mark used in the sale or advertising of services to identify the services of one person and distinguish them from the services of others and includes without limitation the marks, names, symbols, titles, designations, slogans, character names and distinctive features of radio or other advertising used in commerce.

(2) The term "person" as used herein means any individual, firm, partnership, corporation, association, union or other organization.

(3) The term "applicant" as used herein embraces the person filing an application for registration of a trade-mark or service mark under this act, his legal representatives, successors or assigns.

(4) The term "registrant" as used herein embraces the person to whom the registration of a trade-mark or service mark under this act is issued, his legal representatives, successors or assigns.

(5) For the purposes of this act, a trade-mark or service mark shall be deemed to be "used" in this state when it is placed in any manner on the goods or services or their containers or on the tags or labels affixed thereto and such goods or services are distributed in this state.

(6) For the purposes of this act, a trade-mark or service mark shall be deemed to be "adopted and used" in this state when it is used to identify the services of one person and distinguish them from the services of others and such services are sold or otherwise rendered in this state.

70–3–2. Trade-mark Shall Not be Registered—When.

A trade-mark or service mark shall not be registered if it:

(1) Consists of or comprises immoral, deceptive or scandalous matter; or

(2) Consists of or comprises matter which may disparage or falsely suggest a connection with persons, living or dead, institutions, beliefs, or national symbols, or bring them into contempt, or disrepute; or

(3) Consists of or comprises the flag or coat of arms or other insignia of the United States, or of any state or municipality, or of any foreign nation, or any simulation thereof; or

(4) Consists of or comprise the name, signature or portrait of any living individual, except with his written consent; or

(5) Consists of a mark which, (a) when applied to the goods or services of the applicant, is merely descriptive or deceptively misdescriptive of them, or (b) when applied to the goods or services of the applicant is primarily geographically descriptive or deceptively misdescriptive of them, or (c) is primarily merely a surname *provided, however,* that nothing in this section (5) shall prevent the registration of a mark used in this state by the applicant which has become distinctive of the applicant's goods or services. The secretary of state may accept as evidence that the mark has become distinctive, as applied to the applicant's goods or services, proof of continuous use thereof as a mark by the applicant in this state for the five years next preceding the date of the filing of the application for registration; or

(6) Consists of or comprises a trade-mark or service mark which so resembles a trade-mark or service mark registered in this state or a trade-mark, trade name, or service mark previously used in this

state by another and not abandoned, as to be likely, when applied to the goods or services of the applicant, to cause confusion or mistake or to deceive.

(7) Consists of or comprises a trade-mark or service mark which so resembles the name of a domestic corporation or of a foreign corporation qualified to do business in this state as to be likely, when applied to the goods or services of the applicant, to cause confusion or mistake or to deceive; *provided,* registration shall not be refused if it is shown to the satisfaction of the secretary of state that the corporate name is not in bona fide use as a trade name, or that the trade-mark or service mark was used in this state before the adoption of the name by the corporation, or if the corporation gives its written consent to the registration.

70–3–3. Application for Registration of Trade-mark—Contents—Fee. Subject to the limitations set forth in this act, any person who adopts and uses a trade-mark or service mark in this state may file in the office of the secretary of state, on a form to be furnished by the secretary of state, an application for registration of that trade-mark or service mark setting forth, but not limited to, the following information:

(1) The name and business address of the person applying for such registration; and, if a corporation, the state of incorporation.

(2) The goods or services in connection with which the mark is used and the mode or manner in which the mark is used in connection with such goods or services and the class in which such goods or services fall,

(3) The date when the trade-mark or service mark was first used anywhere and the date when it was first used in this state by the applicant or his predecessor in business, and

(4) A statement that the applicant is the owner of the trade-mark or service mark and that no other person has the right to use such trade-mark or service mark either in the identical form thereof or in such near resemblance thereto as might be calculated to deceive or to be mistaken therefor in this state.

The application shall be signed and verified by the applicant or by a member of the firm or an officer of the corporation or association applying.

The application shall be accompanied by a specimen or facsimile of such trade-mark or service mark in triplicate.

The application for registration shall be accompanied by a filing fee of ten dollars ($10.00), payable to the secretary of state.

70–3–4. Certificate of Registration — Issuance — Contents. Upon compliance by the applicant with the requirements of this act, the secretary of state shall cause a certificate of registration to be issued and delivered to the applicant. The certificate of registration shall be issued under the signature of the secretary of state and the seal of the state, and it shall show the name and business address and, if a corporation, the state of incorporation, of the person claiming ownership of the trade-mark or service mark, the date claimed for the first use of the trade-mark or service mark anywhere and the date claimed for the first

use of the trade-mark or service mark in this state, the class of goods or services and a description of the goods or services on which the trade-mark or service mark is used, a reproduction of the trade-mark or service mark, the registration date and the term of the registration.

70–3–5. Certificate of Registration — Copy — Use as Evidence.

Any certificate of registration issued by the secretary of state under the provisions hereof or a copy thereof duly certified by the secretary of state shall be admissible in evidence as competent and sufficient proof of the registration of such trade-mark or service mark in any action or judicial proceedings in any court of this state and shall be prima facie evidence of exclusive ownership of the trade-mark or service mark by the registrant.

70–3–6. Term of Registration — Renewal — Term — Fee — Duty of Secretary of State to Notify of Necessity for Renewal — Effect on Existing Registrations.

Registration of a trade-mark or service mark hereunder shall be effective for a term of ten years from the date of registration, and, upon application filed not later than six months prior to the expiration of such term, on a form to be furnished by the secretary of state, the registration may be renewed for a like term. A renewal fee of five dollars ($5.00) payable to the secretary of state, shall accompany the application for renewal of the registration.

A trade-mark or service mark registration may be renewed for successive periods of ten years in like manner.

The secretary of state shall notify registrants of trade-marks or service marks hereunder of the necessity of renewal within the year next preceding the expiration of the ten years from the date of registration by writing to the last known address of the registrants.

Any registration of a trade-mark in force on May 10, 1955 or any registration of a service mark in force on the date on which this reenacting and amending act shall become effective shall expire ten years from the date of the registration or of the last renewal thereof or one year after the effective date of this act or in the registration of a trade-mark on May 10, 1955 or in the registration of a service mark five years after the effective date of this reenacting and amending Act, whichever is later.

The secretary of state shall within six months after the effective date of this act notify all registrants of trade-mark or service marks under previous acts of the date of expiration of such registrations by writing to the last known address of the registrants.

70–3–7. Assignability — Recording Assignment — Effect of Recording — Failure to Record.

Any trade-mark or service mark and its registration hereunder shall be assignable with the good will of the business in which the trade-mark or service mark is used, or with that part of the good will of the business connected with the use of and symbolized by the trade-mark or service mark. Assignment shall be by instruments in writing duly executed and may be recorded with the secretary of state upon the payment of a fee of five dollars ($5.00) payable to the secretary of state who, upon recording of the assignment, shall issue in the

name of the assignee a new certificate for the remainder of the term of registration or of the last renewal thereof. An assignment of any registration under this act shall be void as against any subsequent purchaser for valuable consideration without notice unless it is recorded with the secretary of state within three months after the date thereof or prior to such subsequent purchase.

70–3–8. Requiring or Accepting Deposit for Return of Article Bearing Trade-mark Not to Constitute Sale.

Whenever the owner of any container or similar article bearing his trade-mark or service mark, shall accept or require the taking or accepting of any security for the return of the same, the delivery of the same to such person upon the deposit of such security shall not constitute a sale of such property, but the title thereto shall at all times remain in such owner with full right of possession upon the return of such deposit.

70–3–9. Record of Trade-marks Open to Public Examination.

The secretary of state shall keep for public examination a record of all trade-marks or service marks registered or renewed under this act.

70–3–10. Cancellation of Registration — Causes.

The secretary of state shall cancel from the register:

(1) Any registration concerning which the secretary of state shall receive a voluntary request for cancellation thereof from the registrant or the assignee of record;

(2) Any registration concerning which he shall find

a. That the registered trade-mark or service mark has been abandoned,

b. That the registrant is not the owner of the trade-mark or service mark,

c. That the registration was granted improperly,

d. That the registration was obtained fraudulently,

e. That the registered trade-mark or service mark is so similar to a trade-mark or service mark registered by another person in the United States patent office, prior to the date of the filing of the application for registration by the registrant hereunder, and not abandoned, as to be likely to cause confusion or mistake or to deceive; *provided, however,* that should the registrant hereunder prove that he is the owner of a concurrent registration of his trade-mark or service mark in the United States patent office covering an area including this state, or is equitably entitled to use or has commonlaw ownership of his trade-mark or service mark for an area comprehending this state, the registration hereunder shall not be cancelled.

(3) When a court of competent jurisdiction shall order cancellation of a registration on any ground.

70–3–11. Classes of Goods.

The following classes of goods or services are established for convenience of administration of this act, but not to limit or extend the applicant's or registrant's rights, and a single application for registration of a trade-mark or service mark may include any or all goods or services upon which the trade-mark or service mark is actually being

used comprised in a single class, but in no event shall a single application include goods or services upon which the trade-mark or service mark is being used which fall within different classes of goods or services.

The said classes are as follows:

1. Raw or partly prepared materials.
2. Receptacles.
3. Baggage, animal equipments, portfolios, and pocketbooks.
4. Abrasives and polishing materials.
5. Adhesives.
6. Chemicals and chemical compositions.
7. Cordage.
8. Smokers' articles, not including tobacco products.
9. Explosives, firearms, equipments, and projectiles.
10. Fertilizers.
11. Inks and inking materials.
12. Construction materials.
13. Hardware and plumbing and steam-fitting supplies.
14. Metals and metal castings and forgings.
15. Oils, greases and other petroleum products.
16. Paints and painters' materials.
17. Tobacco products.
18. Medicines and pharmaceutical preparations.
19. Vehicles.
20. Linoleum and oiled cloth.
21. Electrical apparatus, machines, and supplies.
22. Games, toys, and sporting goods.
23. Cutlery, machinery, and tools, and parts thereof.
24. Laundry appliances and machines.
25. Locks and safes.
26. Measuring and scientific appliances.
27. Horological instruments.
28. Jewelry and precious-metal ware.
29. Brooms, brushes, and dusters.
30. Crockery, earthenware, and porcelain.
31. Filters and refrigerators.
32. Furniture and upholstery.
33. Glassware.
34. Heating, lighting and ventilating apparatus.
35. Belting, hose, machinery packing, and non-metallic tires.
36. Musical instruments and supplies.
37. Paper and stationery.
38. Prints and publications.
39. Clothing.
40. Fancy goods, furnishings, and notions.
41. Canes, parasols, and umbrellas.
42. Knitted, netted and textile fabrics and substitutes therefor.
43. Thread and yarn.
44. Dental, medical and surgical appliances.
45. Soft drinks and carbonated waters.
46. Foods and ingredients of foods.

47. Wines.
48. Malt beverages and liquors.
49. Distilled alcoholic liquors.
50. Merchandise not otherwise classified.
51. Cosmetics and toilet preparations.
52. Detergents and soaps.
100. Miscellaneous.
101. Advertising and business.
102. Insurance and financial.
103. Construction and repair.
104. Communication.
105. Transportation and storage.
106. Material treatment.
107. Education and entertainment.

The secretary of state may amend this classification from time to time as may be necessary or advisable.

70–3–12. False or Fraudulent Representations, Declarations Made in Registration — Liability for Damages.

Any person who shall for himself, or on behalf of any other person, procure the filing or registration of any trade-mark or service mark in the office of the secretary of state under the provisions hereof, by knowingly making any false or fraudulent representation or declaration, verbally or in writing, or by any other fraudulent means, shall be liable to pay all damages sustained in consequence of such filing or registration, to be recovered by or on behalf of the party injured thereby in any court of competent jurisdiction.

70–3–13. Liability for Damages for Unlawful use or Copying.

Subject to the provisions of section 70-3-15 hereof any person who shall

(1) Use in this state, without the consent of the registrant, any reproduction, counterfeit, copy, or colorable imitation of a trade-mark or service mark registered under this act in connection with the sale, offering for sale, or advertising of any goods or services on or in connection with which such use is likely to cause confusion or mistake or to deceive as to the source of origin of such goods; or

(2) Reproduce, counterfeit, copy or colorably imitate any such trade-mark or service mark and apply such reproduction, counterfeit, copy or colorable imitation to labels, signs, prints, packages, wrappers, receptacles, advertisements, or services in any manner intended to be used upon or in conjunction with the distribution in this state of such goods or services;

shall be liable to a civil action by the owner of such registered trade-mark or service mark for any or all of the remedies provided in section 70-3-14 hereof, except that under subsection (2) hereof the registrant shall not be entitled to recover profits or damages unless the acts have been committed with knowledge that such trade-mark or service mark is intended to be used to cause confusion or mistake or to deceive.

70–3–14. Injunctive Relief.

Any owner of a trade-mark or service mark registered under this act may proceed by suit to enjoin the manufacture, use, display or sale of any counterfeits or limitations thereof and any court of competent juridiction may grant injunctions to restrain such manufacture, use, display or sale as may be by the said court deemed just and reasonable, and may require the defendants to pay to such owner all profits derived from/or all damages suffered by reason of such wrongful manufacture, use, display or sale; and such court may also order that any such counterfeits or imitations in the possession or under the control of any defendant in such case, be delivered to an officer of the court, or to the complainant, to be destroyed.

The enumeration of any right or remedy herein shall not affect a registrant's right to prosecute under any penal law of this state.

70–3–15. Common Law Trade Marks Preserved.

Nothing herein shall adversely affect the rights or the enforcement of rights in trade-marks or service marks acquired in good faith at any time at common law.

70–3–16. Effect on Existing Trade-marks.

No provision of this act shall be construed to affect the validity of any trade-mark or service mark now on file with the secretary of state until the expiration of such filing as provided herein.

70–3–17. Pending Actions Not to be Affected.

This act shall not affect any suit, proceeding or appeal pending at the time this act takes effect.

Approved February 25, 1957.

WATER AND IRRIGATION

CHAPTER 157

S. B. No. 248. (Passed March 13, 1957. In effect May 14, 1957.)

STATE ENGINEER — SALARY

An Act Amending Section 73-2-3, Utah Code Annotated 1953, Relating to the State Engineer; Providing for an Increase in Salary.

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

Section 1. Section Amended.

Section 73-2-3, Utah Code Annotated 1953, is amended to read:

73–2–3. Salary and Expenses.

The salary of the state engineer shall be $12,000 per annum payable in equal monthly installments. When the state engineer is away from his office on official business he shall be entitled to his actual traveling expenses.

Approved March 20, 1957.

CHAPTER 158

S. B. No. 138. (Passed March 11, 1957. In effect March 22, 1957.)

IRRIGATION DISTRICTS — ASSESSMENTS, TOLLS AND CHARGES

An Act Amending the Irrigation Districts Act by Amending Sections 73-7-11, 73-7-18, 73-7-21, and 73-7-25, Utah Code Annotated 1953, Relating to the Basis for Assessments, Tolls and Charges; the Powers of the Board of Directors and Duties of Assessors with Respect to Assessments, Tolls and Charges; Elimination of Requirement for Certificates of Sale; and Revision of Basis for Compensation of Board of Directors; and an Emergency Clause.

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

Section 1. Sections Amended.

Sections 73-7-11, 73-7-18, 73-7-21, and 73-7-25, Utah Code Annotated 1953, are amended to read as follows:

73-7-11. Board of Directors — Organization — Powers and Duties — Boundaries of Election Precincts — Allotment of Water — Order — Acquisition of Stock — Contracts with United States — Submission to Electors — Removal of Lands from Assessment Rolls — Temporary Water Permits — Lease of Use of Water — Powers Granted to Effectuate Purposes of Act — Meetings — Quorum — Records — Reports.

The directors having duly qualified, shall organize as a board, elect a president from their number and appoint a secretary. The secretary shall execute a bond, in favor of the district, in form and amount prescribed by said board. The board shall have power, and it shall be its duty, to adopt a seal, manage and conduct the affairs and business of the district, make and execute all necessary contracts, employ such agents, attorneys, officers and employees as may be required, and prescribe their duties. The board shall establish boundaries of election precincts and may change the same, but no such change shall be made less than thirty days prior to an election. Upon the completion of the organization of the district and before any bond issue or contract is voted on, any assessment levied, or toll or charge imposed, the board of directors having first determined the amount of water available for the use of the district, shall on such notice and hearing and under such rules and regulations as the board may determine make a final revision and allotment of the available water to each forty acre tract or smaller tract in separate ownership within each such legal subdivisions; *provided* that no allotment shall be increased above the amount originally alloted by the state engineer without the consent of the state engineer; *provided further* that such final allotment may not thereafter be decreased as long as there may be any outstanding indebtedness in excess of 2 per cent of the assessed valuation of the lands within said district; such allotment may, however, be increased to an amount not exceeding the amount alloted by the state engineer should the additional amount of water become available for the use

of the district. Such final allotment in acre feet, or other units of measurement, the service, turnout, construction, distribution charges, or other charges, if any, shall be the basis for all assessments, tolls and charges levied against the land and shall also thereafter be the basis of the vote at all elections. A copy of the order making such allotment or any increase thereof as herein provided, certified to by the secretary of the district shall be immediately filed for record in the office of the county clerk of the county in which the office of the district is located and a certified copy filed with the county recorder of each county in which any lands of the district are situated. Nothing in this act, however, shall prohibit the state engineer, upon petition by the board of directors after the organization of the district has been perfected, from increasing the maximum allotment of water for any tract or tracts of land embraced within the district when in the opinion of the state engineer said tract or tracts of land cannot be beneficially irrigated with the amount of water allotted. The board of directors shall have the power to construct or may acquire by contract, purchase, condemnation, or otherwise, canals, ditches, reservoirs, reservoir sites, irrigation systems or works and lands necessary or incidental to the use and operation of irrigation works and reservoir sites, which lands may be leased when the leasing thereof will not interfere with their use for irrigation purposes, and also water filings, water rights, rights-of-way, or other property of any interest therein, including power plants when acquired or developed in connection with an irrigation system with the right to sell or dispose of the surplus power therefrom. The board shall also have the right to purchase stock of irrigation, canal and reservoir companies. The board may exchange bonds of the district for any such property upon such terms and conditions as the board may deem best, subject, however, to the approval of the state board of certification. The board, its agents, and employees, shall have the right to enter upon any land in the district, to make surveys and to locate and construct any canal or canals, and the necessary laterals. Said board shall have the right by condemnation to acquire rights-of-way for the enlargement of any ditches, canals, or reservoirs, *provided* that said board shall not have the right to occupy the premises proposed to be condemned pending the determination of a suit, except upon filing such bond as is required by law in the case of suits by other corporations and individuals. The right-of-way is hereby given, dedicated, and set apart, to locate, construct and maintain said works, or reservoirs, over, through or upon any of the lands which are now, or may be the property of the state. The board may make such investigations and based thereon, such representations and assurances to the secretary of the interior, as may be requisite under the Act of Congress, approved August 11, 1916, and may enter into any obligation or contract with the United States for the construction or operation and maintenance of the necessary works for the delivery and distribution of water therefrom or for the assumption, as principal or guarantor of indebtedness to the United States on account of district lands, or for the temporary rental of water under the provisions of the Federal Reclamation Act, and all acts amendatory thereof, or supplementary thereto, or any other Acts of Congress now enacted or which may

hereafter be enacted, and the rules and regulations established thereunder; or the board may contract with the United States for a water supply under any Act of Congress providing for or permitting such contract, and may convey to the United States as partial or full consideration therefor water rights or other property of the district, and in case contract has been or may hereafter be made with the United States as herein provided, bonds of the district may be deposited with the United States at 95 per cent of their par value to the amount to be paid by the district to the United States under any such contract, the interest on said bonds to be provided for by assessment and levy as in the case of other bonds of the district, and regularly paid to the United States to be applied as provided in such contract, and if bonds of the district are not so deposited, it shall be the duty of the board of directors to include as part of any levy or assessment now provided for by law, an amount sufficient to meet each year all payments accruing under the terms of any such contract and the board may accept on behalf of the district, appointment of the district as fiscal agent of the United States, or authorization of the district by the United States, or authorization of the district by the United States to make collections of moneys for or on behalf of the United States in connection with any federal reclamation project, whereupon the district shall be authorized so as to act and to assume the duties and liabilities incident to such action, and the said board shall have full power to do any and all things required by the federal statutes now or hereafter enacted in connection therewith, and all things required by the rules and regulations now or that may hereafter be established by any department of the federal government in regard thereto. Districts cooperating with the United States may rent or lease water, to private lands, entrymen, or municipalities, in the neighborhood of the district, in pursuance of contract with the United States. If contract is proposed to be made with the United States and bonds are not to be deposited with the United States in connection therewith, the question to be submitted to the voters at a special election is whether or not contract shall be entered into with the United States. The notice of election shall state under the terms of what Act or Acts of Congress contract is proposed to be made, and the maximum amount of money payable to the United States for construction purposes exclusive of penalties and interest and the water rights and other property, if any, to be conveyed to the United States as in this section provided. The ballots for such election shall contain the words "Contract with the United States—Yes" and "Contract with the United States—No," or words equivalent thereto. If a majority of the votes cast at such election are "Contract with the United States—Yes," the board of directors shall immediately enter into such contract with United States. The board shall establish equitable rules and regulations for the distribution and use of water among the owners of lands included in this district, and may provide therein that no water shall be delivered to lands which are delinquent or in default in the payment of any toll, charge, tax or assessment. The said rules and regulations shall, as soon as adopted, be printed in convenient form for distribution in the district; *provided, however,* that water, the right to use of which is acquired by the district

under any contract with the United States, shall be distributed and apportioned by the district in accordance with the Acts of Congress and rules and regulations and the provisions of said contract in relation thereto.

The board of directors is authorized and empowered annually to instruct the county assessor of the county in which the lands to be affected are located to, and the assessor shall, remove from the assessment roll any land publicly dedicated to streets, highways and roads, and also other land the use of which has so permanently changed as to prevent the beneficial use of water thereon; provided, that such instructions to the assessor shall be accompanied by a written consent to the removal from the assessment roll signed by all owners of private land affected thereby.

When any tract of land in the district which has no water allotment becomes susceptible to irrigation and use of water, or when any tract has an insufficient water allotment, the board of directors, upon written application of the owner of such land, may temporarily permit water to be applied thereon, and in such case the board is hereby authorized and empowered to annually instruct the county assessor of the county in which the tract to be affected is located to, and the assessor shall, assess such tract for water in the amount to be fixed by the board; provided, that nothing contained in this paragraph shall affect the permanent water allotments in the district.

The board of directors shall have power to lease or rent the use of water not needed by the landowners of said district and in addition thereto may contract to supply and deliver such water to municipalities, corporations, associations or individuals, within or without said district for irrigation or any other beneficial use, at such prices and on such terms as they may deem best; provided, that no lease or rental agreement running for a period of more than five years shall be made, and no vested or prescriptive right to the use of such water shall attach to said land by virtue of such lease or such rental; and, provided, also that any landowner in said district may, where practicable, with the consent of the board of directors assign the right to the whole or any portion of the water so apportioned to his land for any one year to any other bona fide landowner, for use in the district for said year; provided such landowners shall have paid all amounts due on assessments, upon such lands. The board shall generally perform all such acts and have all such powers as shall be necessary fully to carry out the purposes of this act. The board of directors shall by resolution prescribe the dates for holding regular meetings and shall also hold such special meetings as may be required for the proper transaction of business. A special meeting may be called by a written request of ten or more of the electors of said district, addressed to the president of the board of directors, or by the president of the board, or by any two directors. All meetings of the board must be public; and two members shall constitute a quorum for the transaction of business; and on all questions requiring a vote, there shall be a concurrence of at least two members of said board. All records of the board shall be open to the inspection of any landowner during business hours. The board shall at the end of each fiscal year prepare and submit to a public meeting, of the landowners within the district, called

for that purpose, a report covering all transactions and operations of the district during the year.

73-7-18. Duty of County Assessors — Basis of Evaluation — Uniformity — Contracts with United States, Apportionment — Method — Decree of Court.

It shall be the duty of the county assessor of any county embracing the whole or a part of any irrigation district to assess and enter upon his record as assessor in its appropriate column the assessment of all real estate, to which water has been allotted, exclusive of improvements, situate, lying and being within any irrigation district in whole or in part in such county. The assessor shall assess the lands on the basis of the value per acre-foot of water allotted to the lands within the district; provided, that the board of directors of any such irrigation district may divide the district into units and fix a different value per acre-foot of water, or other units of measurement, to cover the service, turnout, construction, distribution charges, or other charges, if any, in the respective units, and in such case, the assessor shall assess the lands within each such unit upon the same basis of value per acre-foot of water, or other units of measurement, to cover the service, turnout, construction, distribution charges, or other charges, if any, within such unit; and the assessor shall enter on his assessment roll the amount of special benefits assessed against each tract of land within any local improvement district situate in the irrigation district as the same is shown on the equalized benefit assessment roll of said improvement district. Immediately after said assessment shall have been extended as provided by law, the assessor shall make returns of the total amount of such assessment to the county commissioners of the county in which the office of said district is located.

In case of contract with the United States, however, under the federal laws, the assessment of real estate within the district may be otherwise apportioned in the following manner:

(1) It may be provided by contract with the United States that assessments shall conform to the requirements of the federal reclamation laws now enacted or which may hereafter be enacted;

(2) It may be provided by contract with the United States that water shall be furnished to the district, or to part of the irrigable lands thereof, upon a temporary rental basis, whereupon lands of the district for which rental charges for any given year are not required to be paid to the United States by the district shall not be taxed for such purposes;

(3) District lands shall not be taxed for purposes of payment to the United States in any year when, and to the extent, on account of exceptional difficulties of reclamation, the district shall be exempted by contract with the United States from said payment to the United States for such lands;

(4) The lands of any irrigation district may be by contract with the United States, divided into units and placed upon a basis of repayment to the United States in successive units, which shall not necessarily be composed of contiguous lands, and in such event the lands of units not yet, in any year, placed upon the repayment basis shall not during such year be subject to taxation for payment of building costs;

(5) In case lands, which shall have been irrigated by means of ditches, canals and reservoirs constructed prior to the organization of any

district shall be included within such district under the terms of section 73-7-1, equitable credit shall be given in the making of assessments for any water and ditch rights appurtenant to such lands, such adjustment shall be made by the board of directors of such irrigation district, which adjustment shall be equitably made so that the cost of the additional rights, property, or benefits acquired by the district under contract from the United States will be fairly and equitably apportioned between the lands having rights in such old ditches, reservoirs or other works, and the lands of the district having no such rights, and due and equitable allowance made to the lands to which any such rights may be appurtenant; provided, that before making any such adjustment or allowance, the board of directors shall publish notice for a period of at least three weeks in a newspaper published in the county in which the greater portion of the irrigable lands of the district are located or if there be no such newspaper published in such county, then in some newspaper of general circulation in that county, which notice shall state that a meeting of the board will be held for the purpose of making such adjustment and allowance, and that all parties interested therein who desire to be heard on the matter will be given an opportunity to appear and present evidence, and such notice shall state the date, the day and hour that such meeting will be held and the place of meeting, and at the date and place provided in the notice the board shall proceed to hear such evidence, if any be presented, and to make such adjustment or allowance in the manner herein prescribed. After such adjustment and allowance by the board of directors, the board shall proceed in the manner prescribed in sections 73-7-48, 73-7-49, 73-7-50, 73-7-51 and 73-7-52 to have such adjustment and allowance duly confirmed by decree of court in similar manner to that provided in said sections with reference to confirmation of the bond issue, and the court shall proceed in like manner as provided in said sections 73-7-48, 73-7-49, 73-7-50, 73-7–51 and 73–7–52 to examine into the regularity of said proceedings of the board and the equity of the adjustment or allowance made by the board, and should the court find said proceedings regular and said allowance or adjustment equitable, then the court shall file its findings and decree confirming the said allowance and adjustment, but if the court shall find that such allowance and adjustment is not equitable, then the court shall itself make an allowance and adjustment which shall be just and equitable as between the various classes of lands in the district, and shall file a decree, confirming such apportionment in like manner and with like effect as the findings and decree provided for in said section 73-7-53, provided, that in no case shall any land be taxed for irrigation purposes under this act, which from any natural cause cannot be irrigated, or is incapable of cultivation.

73–7–21. General Revenue Laws Applicable — Sale — Certificate — Redemption—Taxes to be a Lien.

The revenue laws of this state for the assessment, levying and collecting of taxes on real estate for county purposes, except as herein modified, shall be applicable for the purposes of this act, including the enforcement of penalties and forfeiture for delinquent taxes; provided that lands sold for delinquent district taxes shall be sold separately for such tax; and provided further, that at any time after the sale shall have closed and before the time for redemption has expired, the county

treasurer is authorized and required to sell and assign the interest of the county in any of the real estate sold to the county for delinquency of district taxes to the district itself, or to any person or corporation holding a recorded mortgage or other lien against such real estate, or to any holder of bonds issued by such district, or to any person who will pay the taxes, interest, penalty and costs; and provided further, that the period of redemption from sale for taxes under this act shall be two years. In all respects, an irrigation or water conservation district shall be the beneficiary of taxes assessed and levied by it, provided, however, that the county treasurer shall retain costs and expenses provided by law for the advertisement, sale and redemption of irrigation or water conservation district taxes. All taxes levied by an irrigation district under the provisions of this act, or any act supplemental or amendatory thereof, shall constitute a first lien on the property assessed, which lien shall remain in force until the taxes are paid.

73-7-25. Compensation to Directors — Travel Expenses — Certain Prohibitions — Violation — Penalty.

Each member of the board of directors shall receive compensation for his services, not in excess of $500.00 per annum, to be fixed by the board, payable monthly, and his actual and necessary traveling expenses while engaged in official business. The salary of the secretary, manager, engineer and other officers and employees shall be fixed by the board of directors. No director or any officer named in this act shall, in any manner be interested, directly or indirectly, in any contract awarded or to be awarded by the board, or in the profits to be derived therefrom; nor shall receive any bonds, gratuity, or bribe, and for any violation of this provision, such officer shall be deemed guilty of a felony, and upon conviction therefor he shall forfeit his office, and be punished by a fine not exceeding $5,000.00, or by imprisonment in the penitentiary for a term of not less than one or more than five years.

Section 2. Effective Date.

This act shall take effect upon approval.

Approved March 22, 1957.

CHAPTER 159

S. B. No. 64. (Passed February 28, 1957. In effect May 14, 1957.)

METROPOLITAN WATER DISTRICT — ORGANIZATION AND OPERATION

An Act Amending Sections 73-8-18, 73-8-20, 73-8-26, 73-8-28, 73-8-31 and 73-8-52, Utah Code Annotated 1953, Relating to Metropolitan Water Districts and the Organization and Operation Thereof, Including the Issuance of Bonds and the Levy of Taxes; Providing for the Validation of Metropolitan Water Districts Now in Existence and the Bonds, Contracts and Obligations Thereof; and Repealing Section 73-8-19, Utah Code Annotated 1953, Relating to Municipal Attorneys and Engineers.

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

Section 1. Sections Amended.

Sections 73-8-18, 73-8-20, 73-8-26,73-8-28, 73-8-31 and 73-8-52, Utah Code Annotated 1953, are amended to read as follows:

73–8–18. Powers of Incorporated Districts.

Any district incorporated as herein provided shall have power:

(a) To have perpetual succession.

(b) To sue and be sued in all actions and proceedings and in all courts and tribunals of competent jurisdiction.

(c) To adopt a corporate seal and alter it at pleasure.

(d) To take by grant, purchase, bequest, devise or lease, and to hold, enjoy, lease, sell, encumber, alien or otherwise dispose of, water, water works, water rights and sources of water supply, and any and all real and personal property of any kind within or without the district and within and without the state necessary or convenient to the full exercise of its powers; also to acquire, construct, or operate control and use any and all works, facilities and means necessary or convenient to the exercise of its powers, both within and without the district and within and without the state, and to do and perform any and all things necessary or convenient to the full exercise of the powers herein granted.

(e) To have and exercise the power of eminent domain and in the manner provided by law for the condemnation of private property for public use to take any property necessary to the exercise of the powers herein granted. In any proceeding relative to the exercise of such power of eminent domain, the district shall have the same rights, powers and privileges as a municipal corporation.

(f) To construct and maintain works and establish and maintain facilities across or along any public street or highway and in, upon or over any vacant public lands which public lands are now, or may become, the property of the state of Utah, and to construct works and establish and maintain facilities across any stream of water or water course; *provided, however*, that the district shall promptly restore any such street or highway to its former state of usefulness as nearly as may be, and shall not use the same in such manner as to completely or unnecessarily impair the usefulness thereof. The grant of the right to use such vacant state lands shall be effective upon the filing by such district with the state land board of an application showing the boundaries, extent and locations of the lands, rights-of-way or easements desired for such purposes. If the land, rights-of-way or easement for which application shall be made is for the construction of any aqueduct, ditch, pipe line, conduit, tunnel or other works for the conveyance of water, **or for roads, or for poles,** or towers and wires for the conveyance of electrical energy or for telephonic or telegraphic communication, no compensation shall be charged the district therefor, unless, in the opinion of the state land board the construction of such works will render the remainder of the legal subdivision through which such works are to be constructed valueless or unsalable, in which event the district shall pay for the lands to be taken and for such portion of any legal subdivisions which, in the opinion of the said state land board, are rendered valueless or unsalable, at the rate of $2.50 per acre. If the lands for which application is made are for purposes other than the construction of roads or works for the conveyance of water, or electricity or telephonic

or telegraphic communications, such district shall pay to the state for such lands at the rate of $2.50 per acre. Upon filing such application, accompanied by map or plat showing the location or proposed location of such works or facilities, the fee title to so much of such state lands as shall be necessary or convenient to enable such district efficiently and without interference to construct, maintain and operate its works and to establish, maintain and operate its facilities, shall be conveyed to such district by patent; if an easement or right-of-way only over such lands be sought by such district, such easement or right-of-way shall be evidenced by permit or grant executed by or on behalf of the state land board. The state land board may reserve in such patents, grants or permits, easements and rights-of-way in the public across any lands therein described for streets, roads and highways theretofore established according to law. Before any such patent, grant or permit shall be executed any compensation due to the state under the provisions hereof, must be paid. No fee shall be exacted from such district for any patent, permit or grant so issued or for any service rendered hereunder. In the use of streets the district shall be subject to the reasonable rules and regulations of the county or city wherein such streets lie, concerning excavations and the refilling of excavations, the relaying of pavements and the protection of the public during periods of construction; *provided,* that the district shall not be required to pay any license or permit fees, or file any bonds. The district may be required to pay reasonable inspection fees.

(g) To borrow money, incur indebtedness and to issue bonds and other obligations; *provided, however,* that no district hereunder shall issue bonds to the payment of which the full faith and credit of such district are pledged which in the aggregate shall exceed 10% of 100% of the reasonable fair, cash value of the taxable property therein as computed from the last equalized assessment roll for county purposes prior to the issuance of such bonds. Contracts and agreements with the United States of America, and with any water users' association or any other entity, public, cooperative, or private, from which the district procures water, and bonds payable solely from revenues of the district other than the proceeds of ad valorem taxes, shall not come within the limitation of this paragraph.

(h) To fix and determine the funds required for district purposes of every nature and to apportion, and charge the same against the area of each city, within the district as follows:

(1) As to the costs of all water, water rights, reservoirs, canals, conduits and other works for which the district as a whole receives benefit, and on account of which the district is indebted or on account of which the district has made payment without any previous apportionment and charge having been made, and the charges made against the district by reason of its ownership of stock in any water users' association, in the same proportion as the water and water rights set apart or allotted to each area shall bear to the total water and water rights owned or held by the district.

(2) As to that portion of said funds required for operation, maintenance and the cost of construction of distributing systems, the same shall be equitably apportioned and shall be determined and based on

the benefits and the relative cost of service rendered by the district to each respective area.

(i) To levy and collect taxes for the purposes of carrying on the operations, and paying the obligations of the district; and to levy in any year a tax sufficient to cover in full any deficit that may have resulted from tax delinquencies for any preceding year; *provided, however,* that taxes levied under this section for administering the district and maintaining and operating its properties shall not exceed twenty-five cents on each one hundred dollars of the assessed valuation of taxable property in the district. Taxes levied to pay principal of and interest on the bonds of the district, to pay indebtedness and interest thereon owed to the United States of America, or to pay assessments or other amounts due any water users' association or other entity, public, cooperative or private, from which the district procures water, shall not be subject to the foregoing limitation. Taxes levied for the payment of principal of and interest on the bonds of the district shall be levied for that specific purpose, the proceeds thereof shall be applied solely to the payment of such principal and interest, and such levies, being separate and special levies, shall not be subject to any priorities in favor of obligations of the district in existence at the time such bonds were issued.

(j) To enter into contracts, employ and retain personal services and employ laborers; to create, establish and maintain such officers and positions as shall be necessary and convenient for the transaction of the business of the district, and to elect, appoint and employ such officers, attorneys, agents and employees therefor as shall be found by the board of directors to be necessary and convenient.

(k) To join with one or more other corporations, public or private for the purpose of carrying out any of its powers, and for that purpose to contract with such other corporation or corporations for the purposes of financing such acquisitions, constructions and operations, and therein obligate itself severally or jointly with such other corporation or corporations; also to secure, guarantee or become surety for the payment of any indebtedness, or the performance of any contract or other obligation that may be, or shall have been, incurred or entered into by any corporation in which the district shall have acquired shares of stock by subscription or otherwise. Such contracts may provide for contributions to be made by each party thereto and for the division and apportionment of the expenses of such acquisitions and operations, and the division and apportionment of the benefits, the services and products therefrom, and may provide for an agency to effect such acquisitions and carry on such operations, and shall provide the powers and the methods of procedure for such agency, the method by which such agency may contract. Such contract may contain such other and further covenants and agreements as may be necessary and convenient to accomplish the purposes hereof.

(l) To acquire water and water rights within or without the state; to develop, store and transport water; to subscribe for, purchase and acquire stock in canal companies, water companies and water users' associations; to provide, sell, lease and deliver water for municipal and domestic purposes, irrigation, power, milling, manufacturing, mining,

metallurgical and any and all other beneficial uses; to fix the rates therefor, and to acquire, construct, operate and maintain any and all works, facilities, improvements and property necessary or convenient therefor, and in the doing of all said things to obligate itself jointly with other persons and corporations, public and private, and execute and perform such obligations according to the tenor thereof; *provided, however,* that in the sale, leasing and delivery of water as hereinbefore provided, preference shall always be given to the water requirements within the district; and the supplying of water to purchasers or users without the district shall, in every case, be subject to the paramount right of the district to discontinue the same, in whole or in part, and to take and hold, or to provide, sell and deliver, such water for said or other beneficial uses within the district, upon one year's written notice to the purchaser or user without the district, such notice to be given by the board of directors of the district whenever it shall be determined and declared by resolution adopted by said board of directors by a two-thirds vote thereof that such water is needed or required by users within the district for beneficial use therein.

Each city, the area of which shall be a part or all of any district incorporated hereunder, shall have a preferential right to purchase from the district for distribution by such city, or any public utility therein empowered by said city for the purpose, for domestic, municipal and other beneficial uses within such city, a portion of the water served by the district which shall, from time to time, bear the same ratio to all of the water supply of the district as the total accumulation of amounts paid by such city to the district on tax assessments and otherwise, excepting the purchase of water, toward the capital cost and operation expense of the district's works, shall bear to the total payments received by the district on account of tax assessments and otherwise, excepting purchase of water, toward such capital cost and operating expense.

(m) To invest any surplus money in the district treasury including such money in any sinking fund established for the purpose of providing for the payment of the principal or interest of any bonded contract or other indebtedness or for any other purpose, not required for immediate necessities of the district, in its own bonds, or in treasury notes, or bonds, of the United States, or of this state, and such investment may be made by direct purchase of any issue of such bonds or treasury notes, or part thereof, at the original sale of the same, or by the subsequent purchase of such bonds or treasury notes. Any bonds or treasury notes thus purchased and held may, from time to time, be sold and the proceeds reinvested in bonds or treasury notes, as above provided. Sales of any bonds or treasury notes thus purchased and held shall, from time to time, be made in season so that the proceeds may be applied to the purposes for which the money, with which the bonds or treasury notes were originally purchased, was placed in the treasury of the district. The functions and duties authorized by this paragraph shall be performed by joint action of the comptroller and treasurer, with the approval of the attorney, under such rules and regulations as shall be prescribed by the board of directors of the district.

73-8-20. Powers — Duties Vested in Directors — Representation — Voting.

All powers, privileges and duties vested in or imposed upon any district incorporated hereunder shall be exercised and performed by and through a board of directors; *provided, however,* that the exercise of any and all executive, administrative and ministerial powers may be by said board of directors delegated and redelegated to any of the offices created hereby or by the board of directors acting hereunder.

In the event that the district shall be organized to comprise the area of two or more cities, the board of directors herein referred to shall consist of at least one representative from each municipality, the area of which shall lie within the metropolitan water district. Such representative shall serve without compensation from the district and shall be designated and appointed by the chief executive officers of municipalities, respectively, with the consent and approval of the governing bodies of the municipalities, respectively. As a member of the board of directors, each representative shall be entitled to vote on all questions, orders, resolutions and ordinances coming before the board, and shall be entitled to cast one vote for each ten million dollars, or major fractional part thereof, of assessed valuation of property taxable for district purposes in the city represented by him as shown by the assessment records of the county and evidenced by the certificate of the county auditor; *provided,* that each city shall have at least one vote. In lieu of one representative any city may at its option designate and appoint several representatives not exceeding one additional representative for each fifty million dollars of assessed valuation, but such representative shall cast the vote to which such city would otherwise be entitled as a unit and as a majority of such representatives present shall determine. The affirmative vote of members representing more than 50 per cent of the total number of votes of all the members shall be necessary and, except as otherwise herein provided, shall be sufficient to carry any order, resolution or ordinance coming before the board of directors. For the purposes of this section, the term "major fractional part" shall be deemed to mean a fractional part larger than one-half. Members of the board of directors so constituted shall convene at the time and place fixed by the chief executive officer of the municipality initiating the proceedings hereunder, and immediately upon convening, such board of directors shall elect from its membership a chairman, a vice chairman, and a secretary, who shall serve for a period of two years, or until sooner recalled or resigning, or until his successor shall be elected and qualified.

If any district shall include the area of only one municipality then the board of directors shall consist of such number as the governing body of that municipality shall determine. All provisions of this section appropriate shall apply to such board.

73-8-26. Issuance of Bonds Authorized — Payable from Revenues — General Obligation Bonds — Redemption.

Any district may issue its bonds for the acquisition through construction, purchase, or otherwise and for the improvement or extension of any properties necessary or desirable in the obtaining, treatment and distribution of water and any other properties which the district

is authorized to own under the provisions of this chapter. Such bonds may be issued in such manner as to be payable solely from the revenues of the district other than the proceeds of taxes, in which case they shall be known as "revenue bonds" or may be issued in such manner as to be payable solely from the proceeds of taxes, in which case they shall be known as "general obligation bonds" or may be issued in such manner as to be payable from both operating revenues and the proceeds of taxes, in which event they shall be known as "general obligation revenue bonds." The full faith and credit of the district shall be pledged to the payment of its general obligation and general obligation revenue bonds and taxes shall be levied fully sufficient to pay principal of and interest on general obligation bonds and fully sufficient to pay such part of the principal of and interest on general obligation revenue bonds as the revenues of the district pledged thereto may not be sufficient to meet. General obligation bonds and general obligation revenue bonds may be issued only after approval at an election as provided in Sections 73-8-22, 73-8-23, 73-8-24 and 73-8-25 above. Revenue bonds may be similarly submitted at an election if considered desirable or constitutionally necessary by the board of directors, but nothing in this chapter shall be construed to require such submission. Refunding bonds may be issued without approval at an election.

There may be paid from bond proceeds all legal, engineering and fiscal agent expenses reasonably incurred in connection with the authorization and issuance of the bonds and the acquisition, improving or extension of the improvements, and interest to accrue on the bonds during the period to be covered by the construction, improvement or extension of the improvements and for twelve months thereafter. All bonds issued hereunder shall be fully negotiable for all purposes and shall constitute negotiable instruments under the Negotiable Instruments Law. Such bonds shall mature at such time or times not more than fifty years from their date, shall bear interest at such rate or rates not greater than six per cent per annum, shall be payable at such place or places and generally shall be issued in such manner and with such details and shall be secured as provided in the resolution or resolutions authorizing the issuance of the bonds. Such bonds may be made redeemable in advance of maturity at such time and with such premiums as may be provided in such resolution.

Revenue bonds and general obligation revenue bonds may be payable from and secured by the pledge of all or any specified part of the revenues to be derived by the district from its water supply and the operation of its water facilities and other properties and where the bonds are so issued, it shall be the duty of the board of directors to impose for such water and water services rendered thereby, rates fully sufficient to carry out all undertakings contained in the resolution authorizing the bonds. The board of directors may in such resolution agree to pay the expenses of maintaining and operating the properties of the district from the proceeds of the ad valorem taxes authorized in Section 73-8-18 (i) above, and may enter into such covenants with the future holder or holders of the bonds as to the management and operation of the properties, the imposition and collection of fees and charges for water and services furnished thereby, the

disposition of such fees and revenues, the issuance of future bonds and the creation of future liens and encumbrances against such properties and the revenues thereof, the carrying of insurance on such properties, the keeping of books and records, the deposit, securing and paying out of the proceeds of the bonds, and other pertinent matters, as may be deemed proper by the board of directors to assure the marketability of the bonds. The board of directors may, in its discretion, undertake in such resolution to make the revenues of the properties sufficient to pay all or any specified part of the expense of the operation and maintenance thereof. Covenants may be contained in such resolution with respect to the manner of the imposition and collection of water charges and provision may be made therein for the appointment of a receiver for the properties of the district in the event of a default by the district in carrying out the covenants and agreements contained in the bond resolution. Provision may also be made therein for a trustee to perform such services with respect to the holding and paying out of the revenues of the district and the proceeds of the bonds, and otherwise, as may be considered advisable. Maintenance and operation costs and expenses as referred to in this section shall be construed to include any payments made by the district to the United States of America, to any water users' association, or to any other public or private entity for the cost of operating facilities used in providing water for the district.

It may be provided in the resolution authorizing any bonds hereunder that such resolution shall be once published in a newspaper having a general circulation in the district. For a period of thirty days after the date of such publication, any person in interest shall have the right to contest the legality of such resolution and the bonds to be issued pursuant thereto, and any of the provisions made for the security and payment of any such bonds. After such time no one shall have any cause of action to contest the regularity, formality, or legality of such resolution, bonds, or provisions, for any cause whatsoever. Any such resolution and all of the provisions thereof, as well as the bonds to be issued pursuant thereto, may, in the discretion of the board of directors, be validated in the manner and with the effect provided in Section 73-8-30 of this chapter for the validation of bonds and contract obligations of the district.

Any bonds of the district may be refunded pursuant to resolution of the board of directors, or bonds may be issued hereunder in part for refunding and in part for improvement purposes. Refunding bonds so issued shall be payable from the same sources as were the bonds refunded thereby, and the foregoing provisions of this section shall be applicable to the authorization and issuance of such bonds. Refunding bonds so issued may be sold or may be exchanged for the bonds to be refunded. If sold, the proceeds of sale may be escrowed for the payment of the bonds to be refunded in such manner as may be provided in the resolution authorizing the refunding bonds. No bonds may be refunded hereunder unless they either mature or are callable for redemption under their terms within twelve months from the date of issuance of the refunding bonds or unless the holders thereof voluntarily surrender them for exchange or payment.

73–8–28. Sale of Bonds — Interim Bonds.

Such bonds issued hereunder shall be sold in such manner and for such price as may be determined by the board of directors, but no bonds shall be sold at a price which results in an interest cost thereon in excess of six per cent per annum, computed to maturity according to standard tables of bond values. Temporary or interim bonds or certificates in any denomination desired may be issued after the sale of bonds pending the execution and availability of the definitive bonds.

73–8–31. Water Rates — Payment of Operating Expenses, Repairs, Depreciation — Tax Levy Where Rate Inadequate.

The board of directors shall fix such rate or rates for water furnished as will, in conjunction with the proceeds of the maintenance and operation tax authorized by Section 73-8-18 (i) above, pay the operating expenses of the district, provide for repairs and depreciation of works owned or operated by such district, pay the interest on any bonded or other debt, and so far as practicable, provide as sinking or other fund for the payment of the principal of such debt as the same may become due; it being the intention of this section to require the districts to pay the interest and principal of its indebtedness from the revenues of such district, so far as practicable. If, however, from any cause, the revenues of the district shall be inadequate to pay the interest or principal of any debt, other than revenue bonds, as the same shall become due, the board of directors shall, at the time of fixing the tax levy and in the manner for such tax levy provided, levy and collect annually until said indebtedness shall be paid or until there shall be a sum in the treasury of the district set apart for that purpose sufficient to meet all sums coming due for principal and interest thereon, a tax sufficient to pay the annual interest on such indebtedness, or such part thereof as shall not be met from revenues of the district, and also sufficient to pay such part of the principal of such bonds and other debt as shall become due before the time when money will be available from the next general tax levy, or such portion thereof as shall not be met from revenues of the district; *provided, however,* that if the maturity of such indebtedness be made to begin more than one year after the date when the same shall be incurred, such tax shall be levied and collected at the time and in the manner aforesaid annually sufficient when added to revenues of the district available for that purpose to pay the interest on such indebtedness as it falls due and also to constitute, together with the revenues of the district available for such purpose, a sinking fund for the payment of the principal thereof on or before maturity. The taxes herein required to be levied and collected shall be in addition to all other taxes levied for district purposes and shall be collected at the time and in the same manner as other district taxes are collected and shall be used for no purpose other than the payment of such indebtedness and accruing interest. Nothing in this chapter shall be so construed as to prevent the making of long term contracts by the district for the sale of water to industrial or other large consumers at fixed rates.

73–8–52. Recall and Resignation of Directors.

Every member of the board of directors of a metropolitan water

district formed hereunder shall be subject to recall for cause by the governing body of the municipality from which such member shall be appointed, and any member may resign from said board of directors and any office held by him in said district.

Section 2. Ratification, Validation and Confirmation of Existing Districts.

All metropolitan water districts heretofore created under authority of this chapter and its predecessor acts, and all bonds heretofore issued, and all contracts heretofore entered into by such districts, including contracts with other corporations and with water users' associations, are hereby ratified, validated and confirmed, and such districts are hereby found and declared to be valid and legally constituted districts and such bonds and contracts to constitute valid and legally binding obligations of such districts in accordance with the terms thereof.

Section 3. Section Repealed.

Section 73-8-19, Utah Code Annotated 1953, is repealed.

Section 4. Constitutionality.

If any provision of this act, or the application of any provision to any person or circumstance, is held invalid, the remainder of this act shall not be affected thereby.

Approved March 14, 1957.

CHAPTER 160

S. B. No. 49. (Passed February 28, 1957. In effect March 12, 1957.)

WATER CONSERVANCY ACT

An Act Amending Sections 73-9-14, 73-9-19, and 73-9-29, Utah Code Annotated 1953, and Sections 73-9-13, 73-9-17, and 73-9-18, Utah Code Annotated 1953, as Amended by Chapter 132, Laws of Utah 1953, Relating to the Water Conservancy Act and Designating the Powers of Directors of Subdistricts to Levy and Collect Taxes and Special Assessments and the Type of Property Upon Which Class B Assessments may be Levied; Establishing a Procedure for the Change of Boundaries of Water Conservancy Districts and Subdistricts; Containing a Savings Clause and an Emergency Clause.

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

Section 1. Sections Amended.

Sections 73-9-14, 73-9-19, and 73-9-29, Utah Code Annotated 1953, and Sections 73-9-13, 73-9-17 and 73-9-18, Utah Code Annotated 1953, as amended by Chapter 132, Laws of Utah 1953, are amended to read as follows:

73-9-13. Powers of District Boards.

The board shall have power on behalf of said district:

(a) to have perpetual succession.

(b) to take by appropriation, grant, purchase, bequest, devise or lease, and to hold and enjoy water, waterworks, water rights and

sources of water supply and any and all real and personal property of any kind within or without the district necessary or convenient to the full exercise of its powers; and to sell, lease, encumber, alien or otherwise dispose of water, waterworks, water rights and sources of supply of water for use within the district; also to acquire, construct or operate, control and use any and all works, facilities and means necessary or convenient to the exercise of its power, both within and without the district for the purpose of providing for the use of such water within the district and to do and perform any and all things necessary or convenient to the full exercise of the powers herein granted.

(c) to have and to exercise the power of eminent domain and in the manner provided by law for the condemnation of private property for public use to take any property necessary to the exercise of the powers herein granted; *provided, however,* such district shall not have or exercise the power of eminent domain over or by means thereof to acquire the title to or beneficial use of vested water rights for transmountain diversion, and in connection therewith such district shall not have the power to carry or transport water in transmountain diversion, the title to which has been acquired by any municipality by virtue of eminent domain proceedings against any such vested right or rights.

(d) to construct and maintain works and establish and maintain facilities across or along any public street or highway, and in, upon, or over any vacant public lands which public lands are now, or may become, the property of the State of Utah, and to construct works and establish and maintain facilities across any streams of water or water courses; *provided, however,* that the district shall promptly restore any such street or highway to its former state of usefulness as nearly as may be, and shall not use the same in such manner as to completely or unnecessarily impair the usefulness thereof. The grant of the right to use such vacant state land shall be effective upon the filing by such district with the state land board of an application showing the boundaries, extent and locations of the lands, right-of-ways, of easements desired for such purposes. If the land, right-of-ways, or easements for which application shall be made is for the construction of any aqueduct, ditch, pipe line, conduit, tunnel or other works for the conveyance of water or for roads, or for poles or towers, and wires for the conveyance of electrical energy or for telephone or telegraphic communication for compensation shall be charged with district therefor, unless in the opinion of the state land board the construction of such works will render the remainder of the legal subdivision through which such works are to be constructed valueless or unsalable, in which event the district shall pay for the lands to be taken and for such portion of any legal subdivisions which in the opinion of the board is rendered valueless or unsalable, at the rate of $2.50 per acre. If the lands for which application is made are for purposes other than the construction of roads or works for the conveyance of water, or electricity or telephonic or telegraphic communication, such district shall pay to the state for such lands at the rate of $2.50 per acre. Upon filing such application, accompanied by map or plat showing the location or proposed location of such works and facilities, the fee title to so much

of such state lands as shall be necessary or convenient to enable such district efficiently and without interference to construct, maintain, and operate its works and to establish, maintain and operate its facilities, shall be conveyed to said district by patent. If an easement of right-of-way only over such lands be sought by the district, such easement or right-of-way shall be evidenced by permit or grant executed by or on behalf of the state land board. The state land board may reserve easements and right-of-ways, in the public across any lands in such patents, grants or permits described for streets, roads and highways, therefore established according to law. Before any such patent, grant or permit shall be executed, any compensation due to the state under the provisions hereof, must be paid. No fee shall be exacted from the district for any patent, permit or grant so issued or for any service rendered hereunder. In the use of streets, the district shall be subject to the reasonable rules and regulations of the county, city or town where such streets lie, concerning excavation and the refilling of excavation, the relaying of pavements and the protection of the public during periods of construction; *provided* that the district shall not be required to pay any license or permit fees, or file any bonds. The district may be required to pay reasonable inspection fees.

(e) to contract with the government of the United States or any agency thereof for the construction, preservation, operation and maintenance of tunnels, drains, pipe lines, reservoirs, regulating basins, diversion canals and works, dams, power plants and all necessary works incident thereto, and to acquire perpetual rights to the use of water from such works; to sell and dispose of perpetual rights to the use of water from such works to persons and corporations, public and private.

(f) to list in separate ownership the lands within the district which are susceptible of irrigation from district sources and to make an allotment of water to all such lands, which allotment of water shall not exceed the maximum amount of water that the board determines could be beneficially used on such lands; to levy assessments as hereinafter provided, against the lands within the district to which water is alloted on the basis of the value per acre-foot of water alloted to said lands within the district; *provided,* that the board may divide the district into units and fix a different value per acre-foot of water in the respective units, and in such case, shall assess the lands within each unit upon the same basis of value per acre-foot of water alloted to lands within such unit.

(g) to fix rates at which water not allotted to lands as hereinbefore provided, shall be sold, leased, or otherwise disposed of; *provided, however,* that rates shall be equitable although not necessarily equal or uniform for like classes of service throughout the district.

(h) enter into contracts, employ and retain personnel services and employ laborers; to create, establish and maintain such offices and positions as shall be necessary and convenient for the transaction of the businesses of the districts; and to elect, appoint and employ such officers, attorneys, agents and employees therefor as shall be found by the board to be necessary and convenient.

(i) to adopt plans and specifications for the works for which the

district was organized, which plans and specifications may at any time be changed or modified by the board. Such plans shall include maps, profiles, and such other data and descriptions as may be necessary to set forth the location and character of the works, and a copy thereof shall be kept in the office of the district and open to public inspection.

(j) to study, investigate and promote water development within the district; to appropriate and otherwise acquire water and water rights within or without the state; to develop, store and transport water; to subscribe for, purchase and acquire stock in canal companies, water companies and waters users' associations, to provide, sell, lease, and deliver water for municipal and domestic purposes, irrigation, power, milling, manufacturing, mining, metallurgical and any and all other beneficial uses and to derive revenue and benefits therefrom; to fix the terms and rates therefor; and to make and adopt plans for and to acquire, construct, operate and maintain dams, reservoirs, canals, conduits, pipe lines, tunnels, power plants, and any and all works, facilities, improvements and property necessary or convenient therefor, and in doing of all said things to obligate itself and execute and perform such obligations according to the tenor thereof; *provided, however,* the sale, leasing and delivery of water for irrigation, and domestic purposes as hereinbefore provided shall only be made for use within the district.

Nothing in this act provided shall be construed to grant to the district or board the power to generate, distribute or sell electric energy except for the operation of the works and facilities of the district.

(k) to invest any surplus money in the district treasury, including such money as may be in any sinking fund established for the purpose of providing for the payment of the principal or interest of any contract, or bonded, or other indebtedness or for any other purpose, not required for the immediate necessities of the district, in its own bonds, or in treasury notes or bonds of the United States, or of this state, and such investment may be made by direct purchase of any issue of such bonds or treasury notes, or part thereof, at the original sale of the same, or by the subsequent purchase of such bonds or treasury notes. Any bonds or treasury notes thus purchased and held may, from time to time, be sold and the proceeds reinvested in bonds or treasury notes as above provided. Sale of any bonds or treasury notes thus purchased and held shall, from time to time, be made in season so that the proceeds may be applied to the purposes for which the money with which the bonds or treasury notes were originally purchased were placed in the treasury of the district.

The functions and duties authorized by this paragraph shall be performed under such rules and regulations as shall be prescribed by the board.

(l) to refund bonded indebtedness incurred by the district under and pursuant to such rules and regulations as shall be prescribed by the board.

(m) to borrow money and incur indebtedness and to issue bonds or other evidence of such indebtedness.

(n) to adopt by-laws not in conflict with the Constitution and laws

of the state for carrying on the business, objects and affairs of the board and of the district.

(o) to construct works and improvements on land not subject to acquisition by condemnation held by the district for a term of not less than 50 years under lease, easement or otherwise and to issue bonds to pay the cost thereof as otherwise herein provided.

(p) to acquire, construct or operate and maintain works for the irrigation of land as well as for the other specific purposes hereinabove set forth.

(q) to sell water and water service to individual customers (domestic, culinary, agricultural, industrial or otherwise) and to charge and agree to charge sufficient rates for water and service so supplied, *provided, however,* that no such sale of water for domestic or culinary use shall be made to a customer located within the limits of any incorporated municipality at the time of the creation of the district and at the time of service without the consent of such municipality.

(r) to make and collect fees and charges for customer connections to the works of the district and for permitting and supervising the making of such connections. The proceeds of such connection charges may be used or pledged by the district for any lawful corporate purpose including the construction or acquisition of facilities, the payment of principal of and interest on bonds of the district and the creation of a reserve for such purposes.

(s) to own property for its corporate purposes within the boundaries of incorporated municipalities. No franchise shall be necessary for the acquisition, ownership, operation and maintenance of such property.

Any water conservancy district and any incorporated municipality located within or without the boundaries of the district and any other district created under the provisions of any law of the State of Utah are hereby expressly authorized and empowered to enter into contracts one with the other for any or all of the following purposes:

(1) For the joint operation of any water facilities owned by any such district or municipality or for the exchange of water or water rights or facilities or for the leasing of water and water facilities, any or all.

(2) For the purpose of providing for the operation or use of any water facilities owned by any such municipality or district by any other such municipality or district or for the joint operation of any such facilities or for the lease of any water or water facilities any such agreements may provide for the joint use of any water facilities owned by any one of the contracting parties under such arrangements for reasonable compensation as provision may be made therein. Any such agreement may provide for the renting or loan of water by one contracting party to the other or for the sale of such water by one party thereto and its purchase by another. No limitation contained in any existing act requiring the water of any district to be supplied to its own residents on a priority basis shall be applicable to any contract made hereunder.

(3) To provide for the sale of water by one contracting party and its purchase and payment by one or more other contracting parties.

Any such contract may run for such term of years as may be therein specified. Such contract may require the purchasing party to pay for certain specified annual minimums, where the water is available for it without regard to actual taking or use. Any such contract may provide for the payment for water sold or contracted to be sold thereunder from the general funds or other funds of the purchasing municipality or district or from the proceeds of class B assessments imposed under the Water Conservancy Act or from the proceeds of water distributed and sold through the distribution system of the purchasing district or municipality or from any combination of such sources of payment. If it shall be the desire of any municipality agreeing to purchase water under any such contract, for the purpose of complying with any pertinent constiututional requirement or for any other reason to submit the question of the authorization of such contract to the vote of such qualified electors as shall have paid a property tax therein in the year preceding such election, the governing body of such municipality may call an election for such purpose which election shall be called, notice thereof given, held and the results thereof canvassed and declared in the manner provided by law for the holding of elections in such municipality on the question of the issuance of bonds for water purposes.

73-9-14. Subdistricts — Organization — Method — Requirements — Contents — Consent of Board of Directors to Furnish Water — Decree of Organization — Notice — Powers of Directors.

Subdistricts may be organized upon the petition of the owners of real property, within or partly within and partly without the district, which petition shall be in substantially the same form and shall fulfill the same requirements concerning the subdistricts as the petition outlined in section 73-9-4 of this chapter as amended is required to fulfill, concerning the organization of the main district. Such petition shall also contain a statement of the quantity of water which the subdistrict proposes to acquire from the district for perpetual use and the court shall, prior to the entry of its decree organizing a subdistrict, require that the petitioners attach to the petition written evidence of the consent of the board of directors of the district to furnish to such subdistrict the perpetual use of water for the purpose therein specified. Petitions for the organization of subdistricts shall be filed with the clerk of the court and shall be accompanied by a bond as provided for in section 73-9-5 of this chapter. The procedure for the organization of subdistricts shall be the same as for the organization of districts, except that the provisions of section 73-9-4 of this chapter as amended respecting the minimum assessed value of land and improvements within districts shall not apply to subdistricts. A subdistrict shall be a separate entity within the district and shall have authority to contract with the district for the furnishing of water and for other purposes. Within thirty days after entering the decree incorporating a subdistrict, the court shall appoint a board of directors of not exceeding seven persons who are owners of real property in the subdistrict, and who are not directors of the district. The provisions of section 73-9-9 of this chapter as amended, except as to the number of directors, shall be applicable to subdistricts. The board of directors of a subdistrict shall have all of the powers, rights and privileges granted to a district board

under the provisions of this chapter, including specifically, but not limited to, the right of the subdistrict board to levy and collect taxes and assessments refered to in sections 73-9-16 to 73- 9- 23, both inclusive, to carry out its separate purposes, such taxes and assessments may be levied and collected by subdistrict notwithstanding the fact that taxes and assessments are being levied and collected by the district in which such subdistrict may lie, to carry out the district purposes; *provided, however,* that the only purpose for which a subdistrict may levy and collect taxes pursuant to section 73-9-16 shall be to pay the expense of its organization and administration, and such taxes shall not exceed one mill on the dollar of assessed valuation of the property within the district.

73–9–17. Allotments of Water to Municipalities — Determination and Fixing of Rates — Levy and Collection of Special Assessments — Class B.

To levy and collect special assessments under class B as herein provided, the board shall make an allotment of water to each petitioning municipality in the district in the manner as hereinafter provided, in such quantity as will in the judgment of the board, when added to the then present supply of water of such municipality, make an adequate supply for such municipality, and shall fix and determine the rate or rates per acre-foot, or other units of measurement, the service, turnout, construction, distribution system charges, or other charges, if any, and terms at and upon which water shall be sold, leased or otherwise disposed of, for use by such municipalities; *provided, however,* that such rates and charges shall be equitable although not necessarily equal or uniform for like classes of services throughout the district. In the event of any city, city and county, or town shall desire to purchase, lease or otherwise obtain the beneficial use of waters of the district for domestic or irrigation purposes, the legislative body of such municipality shall by ordinance authorize and direct its mayor and clerk to petition the board for an allotment of water, upon terms prescribed by the board, which petition shall contain inter alia, the following:

(1) Name of municipality.

(2) Quantity of water to be purchased or otherwise acquired.

(3) Price per acre-foot or other unit of measurement, and the amount of any service, turnout, connection, distribution system charge or other charges to be paid.

(4) Whether payments are to be made in cash or annual installments.

(5) Agreement by the municipality to make payments for the beneficial use of such water together with annual maintenance and operating charges and to be bound by the provisions of this act and the rules and regulations of the board.

Neither the quantity of the water to be acquired, nor the rates or charges as specified in such petition, need be the same in each year to be covered by the petition. Any such petition and order may provide for water for such municipality for such term of years and may be fixed therein and the procedure herein provided for the determination of the amount of taxes necessary to be levied each year shall be operative in each year over such term of years without the filing of a new petition or the entering of a new order.

The secretary of the board shall cause notice of the filing of such petition to be given and published once each week for two successive weeks, in a newspaper published in the county in which said municipality is situated, which notice shall state the filing of such petition and giving notice to all persons interested to appear at the office of the board, at a time named in said notice and show cause, in writing, if any they have, why the petition should not be granted, and such persons may advance reasons and arguments to show that the municipality and its inhabitants will not be benefited by the proposed petition and order to the amount of such taxes. The board at the time and place mentioned in said notice or at such time or times at which the hearing of said petition may adjourn, shall proceed to hear the petition and objections thereto, presented, in writing, by any person showing cause as aforesaid why said petition should not be granted. The failure of any person interested to show cause in writing, as aforesaid, shall be deemed and taken as an assent on his part to the granting of said petition. The board may at its discretion, accept or reject the said petition, but if it deems it for the best interest of the district that said petition be granted, and if it finds that said municipality and its inhabitants will be benefited thereby to an amount not less than the taxes which will be imposed, it shall enter an order granting the said petition and from and after such order the said municipality shall be deemed to have purchased, leased or otherwise acquired the beneficial use of water as set forth in said order. If said petition is granted, the board shall, in each year, determine the amount of money necessary to be raised by taxation from property within such municipality to pay the annual installments and a fair proportionate amount of estimated operating and maintenance charges for the next succeeding year, as provided in the order granting said petition, and prepare a statement showing the tax rate to be applied to all property in such municipality, which rate shall be the rate fixed by resolution of the board modified to the extent necessary to produce from each such municipality only the amount of money apportioned thereto in said resolution, less any amount paid or undertaken to be paid by such municipality in cash or as credited thereto by payments from the other funds of such municipality. In fixing the rate of taxes to be levied in each year the board shall give due consideration to probable delinquencies in tax payments and shall fix such rate as will assure the prompt collection of taxes sufficient to make up the amount needed for such year despite the fact that a part of the taxes so levied may be delinquent when due. Upon receipt by the board of county commissioners of each county, wherein such municipality is located, of a certified copy of such resolution showing the tax rate to be applied to all property in each municipality and showing the municipalities and the property which is exempt therefrom, if any, it shall be the duty of the county officers to levy and collect such tax in addition to such other tax as may be levied by such board of county commissioners at the rate so fixed and determined.

The hearing on the petition for which provision is hereinabove required and the finding as to benefits which will be made by the board shall take into consideration a tax to be levied on all real and personal property in the petitioning municipality and the class B assessments which will be levied pursuant to the provisions of this section shall be in the nature

of ad valorem taxes to be levied on all real and personal property in the municipality with the exception of property exempt from taxation under the provisions of the Constitution and statutes of Utah or section 73-9-24 hereof.

73–9–18. Board May Sell or Lease Water to Irrigation Districts—Levy and Collection of Special Assessments Under Class C.

To levy and collect special assessments upon lands under class C as herein provided, the board shall make an allotment of water to each of the petitioning irrigation districts within the district in the manner as hereinafter provided in such quantity as will in the judgment of the board, when added to the present supply of water of such irrigation district, make an adequate supply of water for such irrigation district, and shall fix and determine the rates per acre-foot or other unit of measurement, the service, turnout, connection, distribution system charges or other charges and terms at and upon which water shall be sold, leased or otherwise disposed of to such irrigation district; provided, however, that such rates and charges shall be equitable although not necessarily equal or uniform for like classes of services throughout the district. In the event any irrigation district shall desire to purchase, lease, or otherwise obtain the beneficial use of waters of the district, the board of such irrigation district shall desire to purchase, lease, or otherwise obtain the beneficial use of waters of the district, the board of such irrigation district shall by resolution authorize and direct its president and secretary to petition the board for an allotment of water, upon terms prescribed by the board, which petition shall contain, inter alia, the following:

(1) Name of irrigation district.

(2) Quantity of water to be purchased or otherwise acquired.

(3) Price per acre-foot or other unit of measurement and the amount of any service, connection, distribution system charge or other charges to be paid.

(4) Whether payments are to be made in cash or annual installments.

(5) Agreement by such irrigation district to make payments for the beneficial use of such water, together with annual maintenance and operating charges, and to be bound by the provision of this act and the rules and regulations of the board.

The secretary of the board shall cause notice of the filing of such petition to be given and published, which notice shall state the filing of such petition and giving notice to all persons interested to appear at the office of the board at a time named in said notice and show cause in writing, if any they have, why the petition should not be granted. The board at the time and place mentioned in said notice, or at such time or times at which the hearing of said petition may be adjourned, shall proceed to hear the petition and objections thereto, presented, in writing, by any person showing cause as aforesaid why said petition should not be granted. The failure of any person interested to show cause in writing, as aforesaid, shall be deemed and taken as an assent on his part to the granting of said petition. The board may, at its discretion, accept or reject the said petition, but if it deems it for the best interest of the district the said petition shall be granted, shall enter an order to that effect granting the said petition, and from and after such order, the irri-

gation district, and/or persons therein shall be deemed to have purchased, leased, or otherwise acquired the beneficial use of water as set forth in said order. If said petition is granted, the board shall, in each year, determine the amount of money necessary to be raised by special assessment on lands within such irrigation district and shall determine whether such special assessment shall be levied by the district or by the irrigation district. If the board determines that such assessments shall be levied by the district, it shall certify to the county assessor of the county in which the lands of such irrigation district are located the amount of the assessment, plus a fair proportionate amount of the estimated operating and maintenance charges for the next succeeding year on each tract of land on or before the first day of July of each year, and such county assessor shall extend the amount of such special assessment, plus said operating and maintenance charges on the tax roll as a special assessment against the lands on which said special assessments is made. If the board determines that such assessments shall be levied by the irrigation district, the district shall make a contract with the irrigation district which shall provide among other things for the annual payment to the district of an amount to be obtained from the levy by the irrigation district of annual assessments in accordance with the irrigation district law. If sub-district or sub-districts are organized as herein provided, assessments of special benefits shall be made, agreed on the tax rolls and collected in the same manner as herein provided in the case of irrigation districts.

73–9–19. Board May Sell or Lease Water to Persons and Private Corporations on Petition—Levy and Collection of Taxes Under Class D.

To levy and collect special assessments upon lands under class D as herein provided, the board shall make an allotment of water to petitioning owners of lands in the district, upon which water can be beneficially used in the manner as hereinafter provided, in such amount as will, in the judgment of the board, together with the present supply of water for irrigation purposes on such lands, make an adequate water supply for irrigation of such lands, and shall fix and determine the rate or rates per acre-foot or other unit of measurement, the service, turnout, connection, distribution system charges, or other charges, if any, and the terms at and upon which water shall be held, leased or otherwise disposed of, for use on said lands. In the event that any person or private corporation shall elect to purchase, lease or otherwise obtain the beneficial use of waters of the district for irrigation of lands, such person or corporation shall petition the board for an allotment of water upon terms prescribed by the board, which petition shall contain inter alia, the following:

(1) Name of applicant.

(2) Quantity of water to be purchased or otherwise acquired.

(3) Description of lands upon which the water will be used and attached.

(4) Price per acre-foot or other unit of measurement and the amount of any service, turnout, connection, distribution system charge, or other charges to be paid.

(5) Whether payments will be made in cash or annual installments.

(6) Agreement that the annual installments and the charges for

maintenance and operating shall become a tax lien upon the lands for which such water is petitioned and alloted and to be bound by the provisions of this act and the rules and regulations of the board.

The board may, in its discretion, accept or reject the said petition, but if it deems it for the best interest of the district that said petition be granted, shall enter an order granting the said petition, and from and after such order, the said petitioner shall be deemed to have agreed to the purchase, lease or other means of acquiring the beneficial use of water under the terms set forth in said petition and order. Such order shall provide for payment on the basis of rate per acre-foot or other unit of measurement of water allotted to said lands within the district, providing that the board may divide the district into units and fix a different rate per acre-foot or other unit of measurement of water in the respective units and different amounts of service, turnout, connection, disribution system charges or other charges, and provided, further, that such rates and charges shall be equitable although not necessarily equal or uniform for like classes of services throughout the district.

The secretary of the board shall cause notice of the filing of such petition to be given and published, which notice shall state the filing of such petition and giving notice to all persons interested to appear at the office of the board at a time named in said notice and show cause in writing, if any they have, why the petition should not be granted. The board at the time and place mentioned in said notice, or at such time or times at which the hearing on said petition may be adjourned, shall proceed to hear the petition and objections thereto, presented, in writing, by any person showing cause as aforesaid, why said petition should not be granted. The failure of any person interested to show cause, in writing, as aforesaid, shall be deemed and taken as an assent on his part to the granting of said petition. The board may, at its discretion, accept or reject the said petition, but if it deems it for the best interest of the district that said petition shall be granted, shall enter an order to that effect granting said petition, and from and after such order the petitioner or persons interested therein, shall be deemed to have purchased, leased or otherwise acquired the beneficial use of water as set forth in said order. If such petition is granted the board shall cause a certified copy of the order granting said petition to be recorded in the county in which said lands are located, and thereafter the annual installments and annual operating and maintenance charges shall be a perpetual tax lien upon said lands. The board shall on or before the first day of July of each year, certify to the county assessor of the county within the district in which such lands are located the amount of the annual installments, plus a fair proportionate amount of the estimate operating and maintenance charges apportioned to said lands for the next succeeding year and such county assessor shall extend the amount so certified on the tax roll as a flat special assessment against the lands for which such water is petitioned and allotted.

73-9-29. Change of Boundaries—Petition for Inclusion of Other Lands —Procedure—Additional Method.

(1) The boundaries of any district organized under the provision of this act may be changed in the manner herein prescribed, but the change of boundaries of the district shall not impair or affect its organi-

zation or its rights in or to property, or any of its rights or privileges whatsoever; nor shall it affect or impair or discharge any contract, obligation, lien or charge for or upon which it might be liable or chargeable had such change of boundaries not been made. The owners of lands may file with the board a petition, in writing, praying that such lands be included in the district. The petition shall describe the tracts or body of land owned by the petitioners, and such petition shall be deemed to give assent of the petitioners to the inclusion in said district of the lands described in the petition, and such petition must be acknowledged in the same manner that conveyances of land are required to be acknowledged. The secretary of the board shall cause notice of the filing of such petition to be given and published in the county in which the lands are situated, which notice shall state the filing of such petition, names of petitioners, descriptions of lands mentioned and the prayer of said petitioners; giving notice to all persons interested to appear at the office of the board at the time named in said notice and show cause in writing, if any they have, why the petition should not be granted. The board shall at the time and place mentioned or at such time or times at which the hearing may be adjourned, proceed to hear the petition and all objections thereto, presented, in writing, by any person showing cause why said petition should not be granted. The failure of any person interested to show cause, in writing, shall be deemed and held and taken as an assent on his part to the inclusion of such lands in the district as prayed for in the petition. If the petition is granted, the board shall make an order to that effect and file same with the clerk of the court and upon order of the court said lands shall be included in the district.

(2) In addition to the method provided above, additional areas, either contiguous, or non-contiguous to the district and to each other, and including irrigated lands, non-irrigated lands, land in towns and cities, and other lands, and any one or more of the same, may be included in the district by petition, which petition shall be filed in the district court of the county in which the petition for organization of the original district was filed, signed by not fewer than twenty per cent or 500 whichever is the lesser of the owners of irrigated lands in said area, but not embraced within the corporate limits of a city or town; and each tract of land shall be listed opposite the name of the signer, each such tract, together with the improvements thereon, to have an assessed value of not less than three hundred dollars; and be also signed by not fewer than five per cent or 100 whichever is the lesser of the owners of non-irrigated lands and lands embraced within the incorporated limits of a city or town, all situated in the area embraced in said petition; and each tract of land shall be listed opposite the name of the signer, each such tract, together with improvements thereon, to have an assessed value of not less than three hundred dollars. Said petition shall set forth a general description of the territory in the area sought to be included in the district; the name of the district in which it is sought to be included, the terms and conditions upon which inclusion is sought; and a statement that the property sought to be included will be benefited by the accomplishment of the purposes for which the original district was formed, and shall pray for the inclusion of the area in the district.

No petition with the requisite signatures shall be declared null and

void on account of alleged defects, but the court may at any time permit the petition to be amended to conform to the facts by correcting any errors in the description of the territory or in any other particular. However, similar petitions or duplicate copies of the same petition for the inclusion of the same area may be filed and shall together be regarded as one petition. All such petitions filed prior to the hearing on the first petition filed, shall be considered by the court the same as though filed with the first petition placed on file.

In determining whether the requisite number of landowners has signed the petition, the names as they appear upon the tax roll shall be prima facie evidence of such ownership.

At the time of filing the petition or at any time subsequent thereto, and prior to the time of hearing on said petition a bond shall be filed, with security approved by the court sufficient to pay all expenses connected with the proceedings in the case the inclusion of the area be not effected. If at any time during the proceeding the court shall be satisfied that the bond first executed is insufficient in amount, it may require the execution of an additional bond within a time to be fixed to be not less than ten days distant, and upon failure of the petitioner to execute the same, the petition shall be dismissed.

Immediately after the filing of such petition, the district court of the county wherein such petition is filed or a judge thereof in vacation, shall by order fix a place and time, not less than sixty days nor more than ninety days after the petition is filed, for hearing thereon and thereupon the clerk of said court shall cause notice by publication to be made of the pendency of the petition and of the time and place of hearing thereon; the clerk of said court shall also forthwith cause a copy of said notice to be mailed by the United States registered mail to the board of directors of the district, to the board of county commissioners of each of the several counties, and to the governing body of each of the several cities or towns, having territory within the area proposed to be included within the district.

At any time after the filing of a petition for inclusion of an additional area or additional areas and not less than thirty days prior to the time fixed by order of court for the hearing on said petition, a petition may be filed in the office of the clerk of the court wherein the proceeding for inclusion is pending, signed by not fewer than thirty-five per cent of the owners of irrigated lands in said area, but not embraced within the incorporated limits of a city or town, and also signed by not fewer than twenty per cent of the owners of non-irrigated lands and lands embraced in the incorporated limits of a city or town, all situated in said area proposed to be included within the district, protesting the inclusion of said area. The signers of said protesting petition shall state therein the land owned by each, and shall also state the value thereof as shown by the last preceding assessment. Only a land owner who did not sign the petition for inclusion and who owns land, which together with improvements thereon, had an assessed value of not less than three hundred dollars as shown by the last preceding assessment, shall qualify as a protestant.

In the event a petitioner shall sign such petition both as owner of irrigated and non-irrigated land or lands situated within a municipality, his name shall be counted only as an owner of irrigated lands.

Upon the day set for the hearing upon the original petition, if it shall appear to the court that said protesting petition is not signed by the requisite number of owners of lands and of the requisite value as herein set forth, the court shall thereupon dismiss said protesting petition and shall proceed with the original hearing as in this section provided.

If the court shall find from the evidence that said protesting petition is signed by the requisite number of owners of lands, and of the requisite values, the court shall forthwith dismiss the original petition for inclusion. The finding of the court upon the question of such violation, the genuineness of the signatures, and all matters of law and fact incident to such determination shall be final and conclusive on all parties in interest whether appearing or not, unless within thirty days from entry of the order of dismissal an appeal is taken to the supreme court.

Any owner of real property in said proposed area not having individually signed a petition for the inclusion, and desiring to object to the inclusion, may, on or before ten days prior to the date set for the cause to be heard, file objection to the inclusion. Such objection shall be heard by the court as an advanced case without unnecessary delay.

Any owner or irrigated lands in said proposed area who has not individually signed a petition for the inclusion of the area within the district and who desires to have his irrigated lands excluded from the area proposed to be included may, on or before ten days prior to the date set for the cause to be heard, file a petition in the said district court asking to have his irrigated lands excluded therefrom. Any petition so filed shall be heard by the said district court on the date set for the hearing of the petition for inclusion of the area and the district court shall exclude such irrigated lands from the area proposed for inclusion within the district.

Upon the said hearing, if it shall appear that a petition for the inclusion has been signed and presented, as hereinabove provided, in conformity with this subdivision, and that the allegations of the petition are true, and that no protesting petition has been filed, or if filed has been dismissed as hereinabove provided, the court shall, by order duly entered of record, adjudicate all questions of jurisdiction, find that the property described in the petition will, if included, be benefited by the accomplishment of the purposes for which the original district was formed, declare the area included in the district, declare whether such area is annexed to an existing division, or shall constitute a separate division, declare whether such area can be properly represented by existing directors or whether the number of directors shall be increased to provide for representation of the area annexed, all as fully as if said area had not been included in the original petition for the organization of the district; *provided, however,* that the court shall prior to the entry of its decree including such area within the district, obtain the verified consent of the board of directors of the district to the inclusion of such area.

If the court finds that no petition has been signed and presented in

conformity with this section or that the material facts are not as set forth in the petition filed, it shall dismiss said proceedings and adjudge the costs against the signers of the petition in such proportion as it shall deem just and equitable. An appeal to the supreme court shall lie from an order dismissing said proceeding. Nothing herein shall be construed to prevent the filing of a subsequent petition or petitions for similar purposes, and the right so to renew such proceeding is hereby expressly granted and authorized.

If an order be entered establishing the inclusion of such area into the district, such order shall be deemed final unless within thirty days from date thereof an appeal is taken to the supreme court. The entry of a final order shall conclusively establish the inclusion of the said area against all persons, except that the State of Utah, may attack such order in an action in the nature of a writ of quo warranto, commenced by the attorney general within three months after said decree declaring such area included as provided, and not otherwise. The inclusion of said area shall not be directly or collaterally questioned in any suit, action or proceeding except as herein expressly authorized.

Upon the entry of such decree, the clerk of the court shall transmit to the secretary of state and to the county recorder in each of the counties having lands in said area, copies of the findings and decrees of the court including such area in the district. The same shall be filed in the office of the secretary of state in the same manner as articles of incorporation are now required to be filed under the general laws concerning corporations, and copies shall also be filed in the office of the county recorder in each county in which a party of the district may be, where they shall become permanent records; and the recorder in each county shall receive a fee of one dollar ($1.00) for the filing and preserving the same, and the secretary of state shall receive for filing such copies such fees as now are or hereafter may be provided by law for like services in similar cases.

Any area included in a district pursuant to this section shall be subject to taxes and assessments levied for the payment of indebtedness of the district which was outstanding at the time of the entry of the order for inclusion, and for the payment of indebtedness thereafter incurred in the same manner and to the same extent as though such area was a part of the district as originally established.

(3) The boundaries of any subdistrict may be changed in the manner hereinabove provided for the change of the boundaries of districts.

Section 2. Constitutionality.

If any one or more provisions of this act or the application thereof to any person or circumstance shall ever be held to be invalid for any reason, the remaining provisions hereof and the application thereof to persons or circumstances other than those to which it is held to be invalid shall not be affected thereby.

Section 3. Effective date.

This act shall take effect upon approval.

Approved March 12, 1957.

CHAPTER 161

S. B. No. 260. (Passed March 13, 1957. In effect May 14, 1957.)

BEAR RIVER COMPACT—CORRECTIONS

An Act Amending the Bear River Compact by Amending Articles II, III, IV, V and XVI of Section 73-16-2, Chapter 161, Section 2, Laws of Utah 1955, Providing for the Correction of Certain Typographical Errors.

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

Section 1. Articles Amended.

Articles II, III, IV, V and XVI of Section 73-16-2, Chapter 161, Section 2, Laws of Utah 1955, are amended to read:

ARTICLE II

As used in this Compact the term

1. "Bear River" means the Bear River and its tributaries from its source in the Uinta Mountains to its mouth in Great Salt Lake;

2. "Bear Lake" means Bear Lake and Mud Lake;

3. "Upper Division" means the portion of Bear River from its source in the Uinta Mountains to and including Pixley Dam, a diversion dam in the Southeast Quarter of Section 25, Township 23 North, Range 120 West, Sixth Principal Meridian, Wyoming;

4. "Central Division" means the portion of Bear River from Pixley Dam to and including Stewart Dam, a diversion dam in Section 34, Township 13 South, Range 44 East, Boise Base and Meridian, Idaho;

5. "Lower Division" means the portion of the Bear River between Stewart Dam and Great Salt Lake, including Bear Lake and its tributary drainage;

6. "Upper Utah Section Diversions" means the sum of all diversions in second-feet from the Bear River and the tributaries of the Bear River joining the Bear River upstream from the point where the Bear River crosses the Utah-Wyoming State line above Evanston, Wyoming; excluding the diversions by the Hilliard East Fork Canal, Lannon Canal, Lone Mountain Ditch, and Hilliard West Side Canal;

7. "Upper Wyoming Section Diversions" means the sum of all diversions in second-feet from the Bear River main stem from the point where the Bear River crosses the Utah-Wyoming State line above Evanston, Wyoming, to the point where the Bear River crosses the Wyoming-Utah State line east of Woodruff, Utah, and including the diversions by the Hilliard East Fork Canal, Lannon Canal, Lone Mountain Ditch, and Hilliard West Side Canal;

8. "Lower Utah Section Diversions" means the sum of all diversions in second-feet from the Bear River main stem from the point where the Bear River crosses the Wyoming-Utah State line east of Woodruff, Utah, to the point where the Bear River crosses the Utah-Wyoming State line northeast of Randolph, Utah;

9. "Lower Wyoming Section Diversions" means the sum of all diversions in second-feet from the Bear River main stem from the point where the Bear River crosses the Utah-Wyoming State line northeast of Randolph to and including the diversion at Pixley dam;

10. "Commission" means the Bear River Commission, organized pur-

suant to Article III of this Compact;

11. "Water user" means a person, corporation, or other entity having a right to divert water from the Bear River for beneficial use;

12. "Second-foot" means a flow of one cubic foot of water per second of time passing a given point;

13. "Acre-foot" means the quantity of water required to cover one acre to a depth of one foot, equivalent to 43,560 cubic feet;

14. "Biennium" means the 2-year period commencing on July 1, of the first odd numbered year after the effective date of this Compact and each 2-year period thereafter;

15. "Water year" means the period beginning October 1 and ending September 30 of the following year;

16. "Direct flow" means all water flowing in a natural water-course except water released from storage or imported from a source other than the Bear River watershed;

17. "Border Gaging Station" means the stream flow gaging station in Idaho on the Bear River above Thomas Fork near the Wyoming-Idaho boundary line in the Northeast Quarter of the Northeast Quarter of Section 15, Township 14 South, Range 46 East, Boise Base and Meridian, Idaho;

18. "Smiths Fork" means a Bear River tributary which rises in Lincoln County, Wyoming, and flows in a general southwesterly direction to its confluence with Bear River near Cokeville, Wyoming;

19. "Grade Creek" means a Smith Fork tributary which rises in Lincoln, County, Wyoming, and flows in a westerly direction and in its natural channel is tributary to Smiths Fork in Section 17, Township 25 North, Range 118 West, Sixth Principal Meridian, Wyoming;

20. "Pine Creek" means a Smiths Fork tributary which rises in Lincoln County, Wyoming, emerging from its mountain canyon in Section 34, Township 25 North, Range 118 West, Sixth Principal Meridian, Wyoming, and its natural channel is tributary to Smiths Fork in Section 36, Township 25 North, Range 119 West, Sixth Principal Meridian, Wyoming;

21. "Bruner Creek" and "Pine Creek Springs" means Smith Fork tributaries which rise in Lincoln County, Wyoming, in Sections 31 and 32, Township 25 North Range 118 West, Sixth Principal Meridian, and in their natural channels are tributary to Smiths Fork in Section 36, Township 25 North, Range 119 West, Sixth Principal Meridian, Wyoming;

22. "Spring Creek" means a Smiths Fork tributary which rises in Lincoln County, Wyoming, in Section 1 and 2, Township 24 North, Range 119 West, Sixth Principal Meridian, Wyoming, and flows in a general westerly direction to its confluence with Smiths Fork in Section 4, Township 24 North, Range 119 West, Sixth Principal Meridian, Wyoming;

23. "Sublette Creek" means the Bear River tributary which rises in Lincoln County, Wyoming, and flows in a general westerly direction to its confluence with Bear River in Section 20, Township 24 North, Range 119 West, Sixth Principal Meridian, Wyoming;

24. "Hobble Creek" means the Smiths Fork tributary which rises in Lincoln County, Wyoming, and flows in a general southwesterly direction to its confluence with Smiths Fork in Section 35, Township 28 North, Range 118 West, Sixth Principal Meridian, Wyoming;

25. "Hilliard East Fork Canal" means that irrigation canal which diverts water from the right bank of the East Fork of Bear River in Summit County, Utah, at a point West 1,310 feet and North 330 feet from the Southeast corner of Section 16, Township 2 North, Range 10 East, Salt Lake Base and Meridian, Utah, and runs in a northerly direction crossing the Utah-Wyoming State line into the Southwest Quarter of Section 21, Township 12 North, Range 119 West, Sixth Principal Meridian, Wyoming;

26. "Lannon Canal" means that irrigation canal which diverts water from the right bank of the Bear River in Summit County, Utah, East 1,480 feet from the West Quarter corner of Section 19, Township 3 North, Range 10 East, Salt Lake Base and Meridian, Utah, and runs in a northerly direction crossing the Utah-Wyoming State line into the South Half of Section 20, Township 12 North, Range 119 West, Sixth Principal Meridian, Wyoming;

27. "Lone Mountain Ditch" means that irrigation canal which diverts water from the right bank of the Bear River in Summit County, Utah, North 1,535 feet and East 1,120 feet from the West Quarter corner of Section 19, Township 3 North, Range 10 East, Salt Lake Base and Meridian, Utah, and runs in a northerly direction crossing the Utah-Wyoming State line into the South Half of Section 20, Township 12 North, Range 119 West, Sixth Principal Meridian, Wyoming;

28. "Hilliard West Side Canal" means the irrigation canal which diverts water from the right bank of the Bear River in Summit County, Utah, at a point North 2,190 feet and East 1,450 feet from the South Quarter corner of Section 13, Township 3 North, Range 9 East, Salt Lake Base and Meridian, Utah, and runs in a northerly direction crossing the Utah-Wyoming State line into the South Half of Section 20, Township 12 North, Range 119 West, Sixth Principal Meridian, Wyoming;

29. "Francis Lee Canal" means that irrigation canal which diverts water from the left bank of the Bear River in Uinta County, Wyoming, in the Northeast Quarter of Section 30, Township 18 North, Range 120 West, Sixth Principal Meridian, Wyoming, and runs in a westerly direction across the Wyoming-Utah State line into Section 16, Township 9 North, Range 8 East, Salt Lake Base and Meridian, Utah;

30. "Chapman Canal" means that irrigation canal which diverts water from the left bank of the Bear River in Uinta County, Wyoming, in the Northeast Quarter of Section 36, Township 16 North, Range 121 West, Sixth Principal Meridian, Wyoming, and runs in a northerly direction crossing over the low divide into the Saleratus drainage basin near the Southeast corner of Section 36, Township 17 North, Range 121 West, Sixth Principal Meridian, Wyoming, and then in a general westerly direction crossing the Wyoming-Utah State line;

31. "Neponset Reservoir" means that reservoir located principally in Sections 34 and 35, Township 8 North, Range 7 East, Salt Lake Base and Meridian, Utah, having a capacity of 6,900 acre-feet.

ARTICLE III

A. There is hereby created an interstate administrative agency to be known as the "Bear River Commission" which is hereby constituted a

legal entity and in such name shall exercise the powers hereinafter specified. The Commission shall be composed of nine Commissioners, three Commissioners representing each signatory State, and if appointed by the President, one additional Commissioner representing the United States of America, who shall serve as chairman, without vote. Each Commissioner, except the chairman, shall have one vote. The State Commissioners shall be selected in accordance with State law. Six Commissioners who shall include two Commissioners from each State shall constitute a quorum. The vote of at least two-thirds of the Commissioners when a quorum is present shall be necessary for the action of the Commission.

B. The compensation and expenses of each Commissioner and each adviser shall be paid by the Government which he represents. All expenses incurred by the Commission in the administration of this Compact, except those paid by the United States of America, shall be paid by the signatory State on an equal basis.

C. The Commission shall have power to:

1. Adopt by-laws, rules, and regulations not inconsistent with this Compact;

2. Acquire, hold, convey or otherwise dispose of property;

3. Employ such persons and contract for such services as may be necessary to carry out its duties under this Compact;

4. Sue and be sued as a legal entity in any court of record of a signatory state, and in any court of the United States having jurisdiction of such action;

5. Cooperate with State and Federal agencies in matters relating to water pollution of interstate significance;

6. Perform all functions required of it by this Compact and do all things necessary, proper or convenient in the performance of its duties hereunder, independently or in cooperation with others, including State and Federal agencies.

D. The Commission shall:

1. Enforce this Compact and its orders made hereunder by suit or other appropriate action;

2. Annually compile a report covering the work of the Commission for the water year ending the previous September 30 and transmit it to the President of the United States and to the Governors of the signatory States on or before April 1 of each year;

3. Prepare and transmit to the Governors of the signatory States, and to the President of the United States on or before a date to be determined by the Commission, a report of expenditures during the current biennium, and an estimate of requirements for the following biennium.

ARTICLE IV

Rights to direct flow water shall be administered in each signatory State under state law, with the following limitations:

A. When there is a water emergency, as hereinafter defined for each division, water shall be distributed therein as provided below.

1. Upper Division.

a. When the divertible flow as defined below for the upper division is less than 1,250 second-feet a water emergency shall be deemed to exist therein and such divertible flow is allocated for diversion in the river sections of the Division as follows:

Upper Utah Section Diversions—0.6 percent,
Upper Wyoming Section Diversions—49.3 percent,
Lower Utah Section Diversions—40.5 percent,
Lower Wyoming Section Diversions—9.6 percent.

Such divertible flow shall be the total of the following five items:

(1) Upper Utah Section Diversions in second-feet,
(2) Upper Wyoming Section Diversions in second-feet,
(3) Lower Utah Section Diversions in second-feet,
(4) Lower Wyoming Section Diversions in second-feet,
(5) The flow in second-feet passing Pixley Dam.

b. The Hilliard East Fork Canal, Lannon Canal, Lone Mountain Ditch, and Hilliard West Side Canal, which divert water in Utah to irrigate lands in Wyoming, shall be supplied from the divertible flow allocated to the Upper Wyoming Section Diversions.

c. The Chapman, Bear River, and Francis Lee Canals, which divert water from the main stem of Bear River in Wyoming to irrigate lands in both Wyoming and Utah, shall be supplied from the divertible flow allocated to the Upper Wyoming Section Diversions.

d. The Beckwith Quinn West Side Canal, which diverts water from the main stem of Bear River in Utah to irrigate lands in both Utah and Wyoming, shall be supplied from the divertible flow allocated to the Lower Utah Section Diversions.

e. If for any reason the aggregate of all diversions in a river section of the Upper Division does not equal the allocation of water thereto, the unused portion of such allocation shall be available for use in the other river sections in the Upper Division in the following order:

(1) In the other river section of the same State in which the unused allocation occurs; and (2) In the river sections of the other State. No permanent right of use shall be established by the distribution of water pursuant to this paragraph e.

f. Water allocated to the several sections shall be distributed in each section in accordance with State law.

2. Central Division.

a. When either the divertible flow as hereinafter defined for the Central Division is less than 870 second-feet, or the flow of the Bear River at Border Gaging Station is less than 350 second-feet, whichever shall first occur, a water emergency shall be deemed to exist in the Central Division and the total of all diversions in Wyoming from Grade Creek, Pine Creek, Bruner Creek and Pine Creek Springs, Spring Creek, Sublette Creek, Smiths Fork, and all the tributaries of Smiths Fork above the mouth of Hobble Creek including Hobble Creek, and from the main stem of the Bear River between Pixley Dam and the point where the river crosses the Wyoming-Idaho State line near Border shall be limited for the benefit of the State of Idaho, to not exceeding forty-three (43)

percent of the divertible flow. The remaining fifty-seven (57) percent of the divertible flow shall be available for use in Idaho in the Central Division, but if any portion of such allocation is not used therein it shall be available for use in Idaho in the Lower Division.

The divertible flow for the Central Division shall be the total of the following three items:

(1) Diversions in second-feet in Wyoming consisting of the sum of all diversions from Grade Creek, Pine Creek, Bruner Creek and Pine Creek Springs, Spring Creek, Sublette Creek, and Smiths Fork and all the tributaries of Smiths Fork above the mouth of Hobble Creek including Hobble Creek, and the main stem of the Bear River between Pixley Dam and the point where the river crosses the Wyoming-Idaho State line near Border, Wyoming.

(2) Diversions in second-feet in Idaho from the Bear River Main stem from the point where the river crosses the Wyoming-Idaho State line near Border to Stewart Dam including West Fork Canal which diverts at Stewart Dam.

(3) Flow in second-feet of the Rainbow Inlet Canal and of the Bear River passing downstream from Stewart Dam.

b. The Cook Canal, which diverts water from the main stem of the Bear River in Wyoming to irrigate lands in both Wyoming and Idaho, shall be considered a Wyoming diversion and shall be supplied from the divertible flow allocated to Wyoming.

c. Water allocated to each State shall be distributed in accordance with State law.

3. Lower Division.

a. When the flow of water across the Idaho-Utah boundary line is insufficient to satisfy water rights in Utah, any water user in Utah may file a petition with the Commission alleging that by reason of diversions in Idaho he is being deprived of water to which he is justly entitled, and that by reason thereof, a water emergency exists, and requesting distribution of water under the direction of the Commission. If the Commission finds a water emergency exists, it shall put into effect water delivery schedules, based on priority of rights and prepared by the Commission without regard to the boundary line for all or any part of the Division, and during such emergency, water shall be delivered in accordance with such schedules by the State official charged with the administration of public waters.

B. The Commission shall have authority upon its own motion (1) to declare a water emergency in any or all river divisions based upon its determination that there are diversions which violate this Compact and which encroach upon water rights in a lower State, (2) to make appropriate orders to prevent such encroachments, and (3) to enforce such orders by action before State administrative officials or by court proceedings.

C. When the flow of water in an interstate tributary across a State boundary line is insufficient to satisfy water rights on such tributary

in a lower State, any water user may file a petition with the Commission alleging that by reason of diversions in an upstream State he is being deprived of water to which he is justly entitled and that by reason thereof a water emergency exists, and requesting distribution of water under the direction of the Commission. If the Commission finds that a water emergency exists and that interstate control of water of such tributary is necessary, it shall put into effect water delivery schedules based on priority of rights and prepared without regard to the State boundary line. The State officials in charge of water distribution on interstate tributaries may appoint and fix the compensation and expenses of a joint water commissioner for each tributary. The proportion of the compensation and expenses to be paid by each State shall be determined by the ratio between the number of acres therein which are irrigated by diversions from such tributary, and the total number of acres irrigated from such tributary.

D. In preparing interstate water delivery schedules the Commission, upon notice and after public hearings, shall make findings of fact as to the nature, priority and extent of water rights, rates of flow, duty of water, irrigated acreages, types of crops, time of use, and related matters; provided that such schedules shall recognize and incorporate therein priority of water rights as adjudicated in each of the signatory States. Such findings of fact shall, in any court or before any tribunal, constitute prima facie evidence of the facts found.

E. Water emergencies provided for herein shall terminate on October 1 of each year unless terminated sooner or extended by the Commission.

ARTICLE V

A. Existing storage rights in reservoirs heretofore constructed above Stewart Dam are as follows:

Idaho	324 acre-feet
Utah	11,850 acre-feet
Wyoming	2,150 acre-feet

Additional rights are hereby granted to store in any water year above Stewart Dam, 35,500 acre-feet of Bear River water and no more for use in Utah and Wyoming; and to store in any water year in Idaho or Wyoming on Thomas Fork 1,000 acre-feet of water for use in Idaho. Such additional storage rights shall be subordinate to, and shall not be exercised when the effect thereof will be to impair or interfere with (1) existing direct flow rights for consumptive use in any river division and (2) existing storage rights above Stewart Dam, but shall not be subordinate to any right to store water in Bear Lake or elsewhere below Stewart Dam. One-half of the 35,500 acre-feet of additional storage right above Stewart Dam so granted to Utah and Wyoming is hereby allocated to Utah, and the remaining one-half thereof is allocated to Wyoming, but in order to attain the most beneficial use of such additional storage consistent with the requirements of future water development projects, the three Commissioners for Utah and the three Commissioners for Wyoming are hereby authorized, subject to ratification by the legislature

of Utah and the legislature of Wyoming, to modify by written agreement the allocations of such additional storage.

B. The waters of Bear Lake below elevation of 5,912.91 feet, Utah Power and Light Company Bear Lake datum (the equivalent of elevation 5,915.66 feet based on the sea level datum of 1929 through the Pacific Northwest Supplementary Adjustment of 1947) shall constitute a reserve for irrigation. The water of such reserve shall not be released solely for the generation of power, except in emergency, but after release for irrigation it may be used in generating power if not inconsistent with its use for irrigation. Any water in Bear Lake in excess of that constituting the irrigation reserve may be used solely for the generation of power or for other beneficial uses. As new reservoir capacity above the Stewart Dam is constructed to provide additional storage pursuant to paragraph A of this Article, the Commission shall make a finding in writing as to the quantity of additional storage and shall thereupon make an order increasing the irrigation reserve in accordance with the following table:

Additional Storage acre-feet	Lake surface elevation Utah Power & Light Company Bear Lake datum
5,000	5,913.24
10,000	5,913.56
15,000	5,913.87
20,000	5,914.15
25,000	5,914.41
30,000	5,914.61
35,500	5,914.69
36,500	5,914.70

C. Subject to existing rights, each State shall have the use of water from farm and ranch domestic, and stock watering purposes, and subject to State law shall have the right to impound water for such purposes in reservoirs having storage capacities not in excess, in any case, of 20 acre-feet, without deduction from the allocation made by paragraph A of this article.

D. The storage rights in Bear Lake are hereby recognized and confirmed subject only to the restrictions hereinbefore recited.

ARTICLE XVI

This compact shall be in effect when it shall have been ratified by the Legislature of each signatory State and consented to by the Congress of the United States of America. Notice of ratification by the legislatures of the signatory States shall be given by the Governor of each signatory State to the Governor of each of the other signatory States and to the President of the United States of America, and the President is hereby requested to give notice to the Governor of each of the signatory States of approval by the Congress of the United States of America.

IN WITNESS WHEREOF, The Commissioners and their advisers have executed this compact in five originals, one of which shall be deposited with the General Services Administration of the United States of America, one of which shall be forwarded to the Governor of each of the

signatory States, and one of which shall be made a part of the permanent records of the Bear River Commission.

Done at Salt Lake City, Utah, this 4th day of February 1955.

For the State of Idaho
(s) Fred M. Cooper
(s) Melvin Lauridsen
(s) Mark R. Kulp

For the State of Utah:
(s) George D. Clyde
(s) J. Lorenzo Weidmann
(s) A. V. Smoot
(s) Lawrence B. Johnson
(s) Alonzo F. Hopkin
(s) E. M. Van Orden
(s) Orson A. Christensen

For the State of Wyoming:
(s) L. C. Bishop
(s) H. T. Person
(s) Howard B. Black
(s) Emil C. Gradert
(s) S. Reed Dayton

Approved:
(s) E. O. Larson
E. O. Larson
Representative of the United
States of America

Attest:
(s) E. J. Skeen
Secretary of the Bear
River Compact Commission

Approved March 18, 1957.

PENAL CODE

CHAPTER 162

S. B. No. 225 (Passed March 12, 1957. In effect May 14, 1957.)

ASSAULT BY CONVICT—PENALTY

An Act Amending Sections 76-7-11 and 76-7-12, Utah Code Annotated 1953, To Provide That Any Convict Sentenced to Imprisonment in the State Prison Who Commits an Assault Shall be Punishable as Therein Provided.

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

Section 1. Sections Amended.

Sections 76-7-11 and 76-7-12, Utah Code Annotated 1953, are amended to read:

76-7-11. Assault By Convicts in State Prison—Penalty.

Any convict sentenced to imprisonment in the state prison who commits an assault upon any other convict, or upon the warden or any guard or other person whomsoever, with a deadly weapon or instrument, or by means of force, or by administering any poisonous or other substance which is likely to produce great bodily harm or injury, is guilty of a felony, and shall be punished by imprisonment in the state prison for not less than three nor more than twenty years.

76-7-12. By Convicts Serving Life Sentence.

Every convict in state prison, who, with malice aforethought, commits an assault upon any other convict, or upon the warden or any guard or upon any other person whomsoever, with a deadly weapon or instrument of any kind, or by means of force, or by administering any poisonous or deleterious substance which will likely produce great bodily injury shall be punishable with imprisonment for life or death.

Approved March 22, 1957.

CHAPTER 163

S. B. No. 23. (Passed February 21, 1957. In effect May 14, 1957.)

BURGLARY—DEFINITION

An Act Enacting a New Section To Be Known as Section 76-9-9, Utah Code Annotated 1953, Relating to the Penal Code; and Providing that Unlawful entry is a Misdemeanor.

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

Section 1. Section Enacted.

Section 76-9-9, Utah Code Annotated 1953, is enacted to read:

76-9-9. Entry with Intent to Damage Property, Injure Person, Annoy Peace and Quiet—Misdemeanor.

Every person who unlawfully enters any building or part of any building, room, warehouse, store, mill, barn, stable, outhouse or other building, or any tent, vessel, watercraft, railroad car, automobile, automobile trailer, aeroplane or aircraft with the intent to damage property or to injure a person or annoy the peace and quiet of any occupant therein is guilty of a misdemeanor.

Approved March 1, 1957.

CHAPTER 164

H. B. No. 73 (Passed February 7, 1957. In effect May 14, 1957.)

DESERTION OF FAMILY

An Act Amending Section 76-15-1, Utah Code Annotated 1953, as Amended by Chapter 77, Laws of Utah 1955, Relating to any Person

Who Without Just Cause Deserts or Wilfully Neglects and Refuses to Provide for the Support and Maintenance of his Wife and Children In Necessitous Circumstances to Provide for a Longer Permissable Period of Probation and for Payments to be made as the Court Directs.

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

Section 1. Section Amended.

Section 76-15-1, Utah Code Annotated 1953, as amended by Chapter 77, Laws of Utah 1955, is amended as follows:

76-15-1. Penalty—Disposition of Earnings—Release on Probation—Longer Term—Recognizance.

Any person who, without just cause, deserts or wilfully neglects or refuses to provide for the support and maintenance of his wife in destitute or necessitous circumstances, and any person who, without just excuse, deserts or wilfully neglects or refuses to provide for the support and maintenance of his or her minor child or children, under the age of sixteen years, in destitute or necessitous circumstances is guilty of a felony, and shall be punished by imprisonment in the state prison at hard labor for a period of not to exceed five years; *provided,* that before the trial with the consent of the defendant, or after conviction, instead of imposing the punishment hereinbefore or hereinafter provided the court in its discretion, having regard to the circumstances, financial ability and earning capacity of the defendant, shall have power to make an order, which shall be subject to change by it from time to time as circumstances may require, directing the defendant to pay a certain sum periodically, for a period not to exceed five years, as the court may direct, to be used for the support of the dependants involved, as hereinafter provided, and to release the defendant from custody on probation for a period not to exceed five years, upon his entering a recognizance with or without security in such sum as the court may direct. The condition of the recognizance shall be such, that if the defendant shall make personal appearance in court whenever ordered to do so within the period of probation and shall further comply with the terms of the order and any subsequent modifications thereof, then the recognizance shall be void, otherwise in full force and effect. If the court is satisfied by information and due proof under oath that at any time during the period of probation the defendant has violated the terms of such order, it may forthwith proceed with the trial of the defendant under the original charge, or sentence him under the original conviction, or enforce the original sentence, as the case may be. In the case of forfeiture or recognizance and the enforcement thereof by execution, the sum recovered may, in the discretion of the court, be paid in whole or in part into the county treasury, to be used for the support of the dependants involved, as hereinafter provided.

Approved February 18, 1957.

CHAPTER 165

H. B. No. 163. (Passed March 13, 1957. In effect May 14, 1957.)

HOMICIDE—DRIVING A VEHICLE UNDER INFLUENCE OF ALCOHOL

An Act Relating To The Penal Code; Providing For The Offense Of Causing Death Through The Operation Of A Motor Vehicle While Intoxicated And Providing Punishment In The State Penitentiary For A Period Of From One To Ten Years.

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

Section 1. Section Enacted.
Section 76-30-7.4, Utah Code Annotated 1953, is enacted to read:

76-30-7.4. Death From Operation of Automobile While under Influence of Liquor or Narcotics or Other Drugs—Felony.
Any person, while under the influence of intoxicating liquor or narcotic drugs, or who is under the influence of any other drug to a degree which renders him incapable of safely driving a vehicle, who causes the death of another by operating or driving any automobile, motorcycle or other vehicle in a reckless, negligent or careless manner, or with a wanton or reckless disregard of human life or safety, shall be deemed guilty of a felony and upon conviction shall be punished by imprisonment in the state penitentiary for a period of not less than one year nor more than ten years. A death under this section, is one which occurs as a proximate result of the accident within a year and a day, after the day of the accident.

Approved March 16, 1957.

CHAPTER 166

S. B. No. 22. (Passed February 20, 1957. In effect May 14, 1957.)

LARCENY OF GOODS HELD FOR SALE OR DISPLAY

An Act Relating To Larceny Of Goods Held For Sale And Display; Providing That Detaining A Person Under Probable Cause By A Peace Officer, Merchant, Merchant's Employee, Servant Or Agent Shall Not Render Said Merchant, Merchant's Employee, Servant Or Agent, Or Peace Officer Criminally Or Civilly Liable; Providing For Arrest Without A Warrant By A Peace Officer Upon Reasonable And Probable Ground And Providing That Merchants, Merchants' Employees, Servants Or Agents Shall Not Be Civilly Or Criminally Liable Where Probable Cause Exists To Believe A Person Committed Larceny Of Goods Held For Sale Or Display.

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

Section 1. Right to Detain Person in Possession of Articles Believed to Have Been Unlawfully Taken.
A peace officer, or a merchant, a merchant's employee, servant or agent, who has reasonable and probable ground for believing that goods

held or displayed for sale by the merchant have been taken by a person with intent to steal may, for the purpose of investigating such unlawful act and attempting to effect a recovery of said goods, detain such person in a reasonable manner for a reasonable length of time.

Section 2. Arrest Without Warrant—Reasonable Grounds to Believe a Larceny Committed.

A peace officer may arrest, without warrant, any person whom he has reasonable ground to believe has committed larceny of goods held or displayed for sale. A charge of larceny of goods made to a peace officer by a merchant, merchant's employee, servant or agent shall constitute a reasonable ground for such arrest, and the police officer acting bona fide shall be relieved from any civil or criminal liability therefor *provided, however*, the person making such charge shall in no case be a minor.

Section 3. No Criminal or Civil Liability For Detention—Reasonable Cause.

A peace officer or a merchant, merchant's employee, servant or agent who causes such detention of a person as provided in Section 1, or who causes the arrest of a person for larceny of goods held or displayed for sale shall not be criminally or civilly liable where the peace officer, or merchant, merchant's employee, servant or agent has reasonable and probable ground for believing that the person detained or arrested committed larceny of goods held or displayed for sale.

Section 4. Constitutionality.

It is declared to be the legislative intent that if any section, sub-section, sentence, clause or provision of this Act is held invalid the remainder of the Act shall not be affected.

Approved March 1, 1957.

CHAPTER 167

S. B. No. 135. (Passed March 13, 1957. In effect May 14, 1957.)

NARCOTICS AND POISONS—FELONY

An Act Amending Sections 76-42-1, 76-42-2, 76-42-3, 76-42-4, And 76-42-5, Utah Code Annotated 1953, Relating To Narcotics And Poisons; Making The Violation Thereof A Felony In Most Cases.

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

Sections Amended.

Sections 76-42-1, 76-42-2, 76-42-3, 76-42-4 and 76-42-5, Utah Code Annotated 1953, are amended to read:

76-42-1. Establishing or Keeping House Where Opium Used—Felony.

Any person who knowingly establishes or keeps a house wherein opium is smoked or chewed is guilty of a felony.

76-42-2. Liability of Owner of Premises—Knowledge.

Where a proprietor, landlord or agent rents any house, knowing that it is intended to be used for any of the purposes mentioned in the next

preceding section, and it is so used, such proprietors, landlords or agent is guilty of a felony.

76-42-3. Liability of Servants and Resorters—Felony.
Any clerk, servant or employee in any such house who knowingly may aid in such use of opium, and every person resorting thereto who so uses opium by smoking or chewing it, is guilty of a felony.

76-42-4. Sales of Tobacco to Minors—Misdemeanor.
Any person who sells, gives or furnishes any cigar, cigarette or tobacco in any form, to any person under twenty-one years of age is guilty of a misdemeanor.

76-42-5. Purchase or Possession of Tobacco by Minor—Misdemeanor or Delinquent Child.
Any person under the age of twenty-one years who buys, accepts or has in his possession any cigar, cigarette or tobacco in any form, is guilty of a misdemeanor, or shall be termed a delinquent child, as the case may be.

Approved March 19, 1957.

CHAPTER 168

S. B. No. 134. (Passed March 13, 1957. In effect May 14, 1957.)

NARCOTICS AND POISONS—ADDICTION

An Act Relating To The Unlawful Use Of And Addiction To Narcotics And Providing Penalties For The Violation Thereof.

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

Section 1. Title of Act.
This act shall be known and may be cited as the Narcotics Addiction Act.

Section 2. Definitions.
As used in this act:
(1) The words "narcotics" shall mean cocoa leaves, opiums, isonipecaine, amidone, isoamidone, keto-bemidone, cannabis, and every substance, neither chemically nor physically distinguishable from them.

Section 3. Prohibition Against Addiction—Unlawful Use of Narcotics —Penalty Probation—Confinement.
No person shall unlawfully use or be addicted to the unlawful use of narcotics. No person shall be under the influence of narcotics except which such narcotics have been administered by or under the direction of a person licensed by the State to prescribe and administer narcotics. Any person convicted of violating any provision of this section shall be sentenced to serve a term of not less than 90 days nor more than six months in the county jail. The court may place a person convicted here-

under on probation for a period not to exceed six months and shall, in all cases in which probation is granted, require as a condition thereof that such person be confined in the county jail for at least ninety days, or placed in an appropriate institution for treatment.

Approved March 19, 1957.

CHAPTER 169

S. B. No. 150. (Passed March 13, 1957. In effect May 14, 1957.)

TRADE MARKS AND TRADE NAMES

An Act To Amend Sections 76-59-6 And 76-59-7, Utah Code Annotated 1953, As Enacted By Chapter 159, Laws Of Utah 1955, Relating To The Unauthorized Use Of Containers And Providing That Any Article, Bearing A Registered Trade-Mark Or Service-Mark May Be Used Only By The Owner Thereof; Providing Enforcement Procedures.

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

Section 1. Section Amended.

Section 76-59-6, Utah Code Annotated 1953, as enacted by Chapter 159, Laws of Utah 1955, is amended to read:

76-59-6. Unauthorized Use, Destruction, Concealment or Possession of Containers With Intent to Deprive Owner Where Trade Marked —Misdemeanor.

Every person who, without the consent of the owner of an article bearing the owner's validly registered trade-mark or service-mark, uses, destroys, conceals, or possesses such article or who defaces or otherwise conceals the trade-mark or service-mark upon such article with intent to deprive the owner of the use or possession of the article, is guilty of a misdemeanor; *provided, however,* that nothing contained in this act shall be construed to apply to or restrict the transfer or use of wooden boxes or the re-use of burlap or cotton bags or sacks when those bags or sacks have been reversed, inside out, or the marking thereon have been concealed or obliterated to effectively demonstrate that the products contained therein do not purport to be the products of the registered trade-mark or service-mark theretofore put upon those bags.

Section 2. Section Amended.

Section 76-59-7, Utah Code Annotated 1953, as enacted by the Laws of Utah 1955, is amended to read:

76-59-7. Selling or Dealing in Articles Bearing Registered Trade-Mark With Intent to Defraud—Misdemeanor.

Every person who, without the consent of the owner of an article bearing the owner's validly registered trade-mark or service-mark, knowingly sells or traffics in such article or who withholds such article from the owner thereof with intent to defraud the owner thereof is guilty of a misdemeanor.

Section 3. Enforcement—Right to Inspect.
Subject to the provisions of Section 4 of this act, the Utah state trade commission may, for purposes of enforcement of this chapter, inspect the premises of any business operating in this state, during regular business hours.

Section 4. Unfair Practices—Unfair Competition.
Violation of a provision of this chapter is hereby declared to be unfair trade practice and an unfair method of competition. The Utah state trade commission shall have jurisdiction over such violations and may proceed against a violator as provided by the trade commission act. The trade commission may institute an investigation upon receiving an informal complaint from a person who claims to have been injured by the violation of this chapter. Upon receiving a sworn complaint from a person claiming to be injured by violation of this chapter, the trade commission must institute an investigation. If evidence of a violation is found by the commission or is produced by the complainant, the commission must take appropriate enforcement proceedings as provided in the trade commission act.

Section 5. Chapter Not Limitation on Enforcement Rights.
Nothing in this chapter providing for enforcement by the trade commission shall be construed to deprive law enforcement agencies from assuming jurisdiction and acting upon a proper complaint as provided by law.

Approved March 22, 1957.

CODE OF CRIMINAL PROCEDURE

CHAPTER 170

S. B. No. 5 (Passed February 14, 1957. In effect May 14, 1957.)

CHARGING TWO OR MORE OFFENSES IN INFORMATION

An Act Amending Section 77-21-31, Utah Code Annotated 1953, Relating To Charging More than One Offense In The Indictment, Information Or Complaint And Providing For The Charging Of Two Or More Offenses In Different Counts In the Same Information, Indictment Or Complaint, And Procedure Relating Thereto.

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

Section 1. Section Amended.
Section 77-21-31, Utah Code Annotated 1953, is amended to read:

77-21-31. Joinder of Offenses—Procedure.
The information or indictment must charge but one offense, but the same offense may be set forth in different forms under different counts; and when the offense may be committed by the use of different means,

the means may be alleged in the alternative in the same count; *provided,* that an information or indictment for larceny may contain also a count for obtaining money by false pretenses, a count for embezzlement, and a count for receiving or buying stolen property, knowing it to be stolen; that an information or indictment for forgery may contain a count for uttering a forged instrument, knowing it to be a forgery; that an information or indictment for robbery may contain a count for larceny; that an information or indictment for buglary may contain a count for housebreaking and one for larceny, and an information or indictment for housebreaking may contain a count for larceny; that an information or indictment for rape may contain a count for carnal knowledge of a female under eighteen years of age, and that an information or indictment for rape or assault with intent to commit rape, or carnal knowledge of a female under eighteen years of age, or attempt to commit the crime of carnal knowledge of a female under eighteen years of age, or crime against nature upon any person, or attempt to commit the crime against nature upon any person, may contain also a count for indecent assault *provided further, however,* that in addition to the foregoing an indictment, information, or complaint may charge two or more different offenses that are related or connected together in their commission.

Approved February 21, 1957.

CHAPTER 171

S. B. No. 93. (Passed February 28, 1957. In effect May 14, 1957.)

PARDONS AND PAROLS—AUTHORITY TO ENTER INTO COMPACTS

An Act Amending Sections 77-62-39 and 77-62-40, Utah Code Annotated 1953, Relating To The Authority Of The Governor To Enter Into Compacts With Other States Concerning Pardons And Parols; Providing For A Definition Of "State."

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

Section 1. Sections Amended.
Sections 77-62-39 and 77-62-40, Utah Code Annotated 1953, are amended as follows:

77-62-39. Authority to Enter Into Compacts.
The governor of this state is authorized to execute a compact on behalf of the state of Utah with any other state legally joining therein. 'State," as used in this section, includes any state, territory or possession of the United States and the District of Columbia. The compact shall be in the form substantially as follows:

A compact entered into by and among the contracting states, signatories thereto, with the consent of the Congress of the United States of America, granted by an act entitled An Act Granting the Consent of Congress to any two or more States to enter into Agreements or Com-

pacts for cooperative effort and mutual assistance in the prevention of crime and for other purposes.

The contracting states solemnly agree:

Form of Compact.

(a) That it shall be competent for the duly constituted judicial and administrative authorities of a state party to this compact (herein called sending state) to permit any person convicted of an offense within such state and placed on probation or released on parole to reside in any other state party to this compact (herein called receiving state) while on probation or parole, if

(1) Such person is in fact a resident of or has his family residing within the receiving state and can obtain employment there.

(2) Though not a resident of the receiving state and not having his family residing there, the receiving state consents to such person being sent there.

Before granting such permission, opportunity shall be granted to the receiving state to investigate the home and prospective employment of such person.

A resident of the receiving state, within the meaning of this section, is one who has been an actual inhabitant of such state continuously for more than one year prior to his coming to the sending state and has not resided within the sending state more than six continuous months immediately preceding the commission of the offense for which he has been convicted.

Receiving State to Supervise Probationers or Parolees.

(b) That each receiving state will assume the duties of visitation of and supervision over probationers or parolees of any sending state and in the exercise of those duties will be governed by the same standards that prevail for its own probationers and parolees.

Extradition Procedure Waived, When.

(c) That duly accredited officers of a sending state may at all times enter a receiving state and there apprehend and retake any person on probation or parole from such sending state. For that purpose no formalities will be required other than establishing the authority of the officer and the identity of the person to be retaken. All legal requirements to obtain extradition of fugitives from justice are expressly waived on the part of states party hereto as to such persons. The decision of the sending state to retake a person on probation shall be conclusive upon and not reviewable within the receiving state; *provided,* if at the time when a state seeks to retake a probationer or parolee there should be pending against him within the receiving state any criminal charge, or he should be suspected of having committed within such state a criminal offense, he shall not be retaken without the consent of the receiving state until discharged from prosecution or from imprisonment for such offense.

Transporting Prisoners.

(d) That the duly accredited officers of the sending state will be permitted to transport prisoners being retaken through any and all states parties to this compact without interference.

Rules and Regulations.

(e) That the governor of each state may designate an officer who, acting jointly with like officers of other contracting states, if and when appointed, shall promulgate such rules and regulations as may be deemed necessary to more effectively carry out the terms of this compact.

Execution of Compact—Effect.

(f) That this compact shall become operative immediately upon its execution by any state as between it and any other state or states so executing. When executed it shall have the full force and effect of law within such state, the form of execution to be in accordance with the laws of the executing state.

Renunciation of Compact.

(g) That this compact shall continue in force and remain binding upon each executing state until renounced by it. That duties and obligations hereunder of a renouncing state shall continue as to parolees or probationers residing therein at the time of withdrawal until retaken or finally discharged by the sending state. Renunciation of this compact shall be by the same authority which executed it, on sending six months' notice in writing of intention to withdraw from the compact to the other states party thereto.

77-62-40. Amendments to Interstate Compacts—Transfer of Prisoners —Costs—Supplementary Agreements—Ratification Rules and Regulations.

The governor of this state is authorized, on behalf of the state of Utah, to execute amendments to the compacts provided for in section 77-62-39, Utah Code Annotated 1953, with any other state legally joined therein. "State," as used in this section, includes any state, territory or possession of the United States and the District of Columbia. The amendments to the compact shall be in form substantially as follows:

(a) Whenever the duly constituted judicial and administrative authorities in a sending state shall determine incarceration of a probationer or reincarceration of a parolee is necessary or desirable, said officials may direct that the incarceration or reincarceration be in a prison or other correctional institution within the territory of the receiving state, such receiving state to act in that regard solely as agent for the sending state.

(b) As used in this amendment, the term "receiving state" shall be construed to mean any state, other than the sending state, in which a parolee or probationer may be found, provided that said state is a party to this amendment.

(c) Every state which adopts this amendment shall designate at least one of its correctional institutions as a "Compact Institution" and shall incarcerate persons therein as provided in (a) hereof unless the sending and receiving state in question shall make specific contractural arrangements to the contrary. All states party to this amendment shall have access to "Compact Institutions" at all reasonable hours for the purpose of inspecting the facilities thereof and for the purpose of visiting such of said state's prisoners as may be confined in the institution.

(d) Persons confined in "Compact Institutions" pursuant to the terms of this compact shall at all times be subject to the jurisdiction of the sending state and may at any time be removed from said "Compact Institution" for transfer to a prison or other correctional institution within the sending state, for return to probation or parole, for discharge, or for any other purpose permitted by the laws of the sending state.

(e) All persons who may be confined in a "Compact Institution" pursuant to the provisions of this amendment shall be treated in a reasonable and humane manner. The fact of incarceration or reincarceration in a receiving state shall not deprive any person so incarcerated or reincarcerated of any rights which said person would have had if incarcerated or reincarcerated in an appropriate institution of the sending state; nor shall any agreement to submit to incarceration or reincarceration pursuant to the terms of this amendment be construed as a waiver of any rights which the prisoner would have had if he had been incarcerated or reincarcerated in an appropriate institution of the sending state, except that the hearing or hearings, if any, to which a parolee or probationer may be entitled, (prior to incarceration or reincarceration) by the laws of the sending state may be had before the appropriate judicial or administrative officers of the receiving state. In this event, said judicial and administrative officers shall act as agents of the sending state after consultation with appropriate officers of the sending state.

(f) Any receiving state incurring costs or other expenses under this amendment shall be reimbursed in the amount of such costs or other expenses by the sending state unless the states concerned shall specifically otherwise agree. Any two or more states party to this amendment may enter into supplementary agreements determining a different allocation of costs as among themselves.

(g) This amendment shall take effect when ratified by any two or more states party to the compact and shall be effective as to those states which have specifically ratified this amendment. Rules and regulations necessary to effectuate the terms of this amendment may be promulgated by the appropriate officers of those states which have ratified this amendment.

Approved March 9, 1957.

JUDICIAL CODE

CHAPTER 172

H. B. No. 110. (Passed March 1, 1957. In effect March 11, 1957.)

DISTRICT COURTS — ADDITIONAL JUDGE IN THIRD DISTRICT

An Act Amending Section 78-3-1, Utah Code Annotated 1953, Relating To The Number Of Judges In Each Judicial District Of The State Of Utah And Providing For The Appointment Of Additional Judges: Emergency Clause.

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

Section 1. Section Amended.

Section 78-3-1, Utah Code Annotated 1953, is amended to read:

78-3-1. District Judges—Appointment—Term of Office.

Until otherwise provided by law, there shall be three district judges in the second judicial district, seven district judges in the third judicial district, three district judges in the fourth judicial district, two district judges in the seventh judicial district, and one district judge in each of the remaining judicial districts. The governor shall forthwith appoint one judge for the third judicial district, to hold office until his successor is duly elected and qualified, according to law, at the general election in 1960.

Section 2. Effective Date.

This act shall take effect upon approval.

Approved March 11, 1957.

CHAPTER 173

S. B. No. 16. (Passed February 12, 1957. In effect May 14, 1957.)

SALARIES OF CITY JUDGES

An Act Amending Section 78-4-9, Utah Code Annotated 1953, as Amended by Laws of Utah 1953, Chapter 57, Relating to Compensation of Judges of the City Court and Providing for an Increase in Salaries.

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

Section 1. Section Amended.

Sec. 78-4-9 Utah Code Annotated 1953, as amended by Laws of Utah 1953, Chapter 57, is amended to read:

78-4-9. Compensation.

Judges of the city court shall be paid as other city officers. The annual salary of judges of the city court shall be as follows: in cities of the first class $7,200.00 each; in cities of the second class to be fixed by the mayor of the city with the consent of the governing body thereof at not less than $3,600.00 nor more than $7,200.00; in other cities to be fixed by the mayor of the city, with the consent of the governing body thereof at not less than $2,400.00, nor more than $7,200.00 each. They shall receive no additional compensation as ex-officio justices of the peace.

Approved March 20, 1957.

CHAPTER 174

S. B. No. 250. (Passed March 13, 1957. In effect May 14, 1957.)

EMINENT DOMAIN — EDUCATIONAL INSTITUTIONS

An Act to Amend Section 78-34-1, Utah Code Annotated 1953, Providing That the Right of Eminent Domain May Be Exercised by Education Institutions of Collegiate Grade Within the State of Utah When the Institution is Not Conducted for Profit.

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

Section 1. Section Amended.
Section 78-34-1, Utah Code Annotated 1953, is amended to read:

78-34-1. Uses for Which Right May be Exercised.
Subject to the provisions of this chapter, the right of eminent domain may be exercised in behalf of the following public uses:

(1) All public uses authorized by the government of the United States.

(2) Public buildings and grounds for the use of the state, and all other public uses authorized by the legislature.

(3) Public buildings and grounds for the use of any county, city or incorporated town, or board of education; reservoirs, canals, aqueducts, flumes, ditches, or pipes for conducting water for the use of the inhabitants of any county or city or incorporated town, or for the draining of any county, city or incorporated town; the raising of the banks of streams, removing obstructions therefrom, and widening, deepening or straightening their channels; roads, streets and alleys; and all other public uses for the benefit of any county, city or incorporated town, or the inhabitants thereof.

(4) Wharves, docks, piers, chutes, booms, ferries, bridges, toll roads, byroads, plank and turnpike roads, roads for transportation by traction engines or road locomotives, roads for logging or lumbering purposes, and railroads and street railways for public transportation.

(5) Reservoirs, dams, watergates, canals, ditches, flumes, tunnels, aqueducts and pipes for the supplying of persons, mines, mills, smelters or other works for the reduction of ores, with water for domestic or other uses, or for irrigation purposes, or for the draining and reclaiming of lands, or for the floating of logs and lumber on streams not navigable.

(6) Roads, railroads, tramways, tunnels, ditches, flumes, pipes and dumping places to facilitate the milling, smelting or other reduction of ores, or the working of mines, quarries, coal mines or mineral deposits; outlets, natural or otherwise, for the deposit or conduct of tailings, refuse or water from mills, smelters or other works for the reduction of ores, or from mines, quarries, coal mines or mineral deposits; mill dams; gas or oil pipe lines, tanks or reservoirs; also any occupancy in common by the owners or possessors of different mines, quarries, coal mines, mineral deposits, mills, smelters, or other places for the reduction of ores, or any place for the flow, deposit or conduct of tailings or refuse matter.

(7) Byroads leading from highways to residences and farms.

(8) Telegraph, telephone, electric light and electric power lines, and sites for electric light and power plants.

(9) Sewerage of any city or town, or of any settlement of not less than ten families, or of any public building belonging to the state, or of any college or university.

(10) Canals, reservoirs, dams, ditches, flumes, aqueducts and pipes for supplying and storing water for the operation of machinery for the purpose of generating and transmiting electricity for power, light or heat.

(11) Cemeteries and public parks.

(12) Pipe lines for the purpose of conducting any and all liquids connected with the manufacture of beet sugar.

(13) Sites for mills, smelters or other works for the reduction of ores and necessary to the successful operation thereof, including the right to take lands for the discharge and natural distribution of smoke, fumes and dust therefrom, produced by the operation of such works; *provided,* that the powers granted by this subdivision shall not be exercised in any county where the population exceeds twenty thousand, or within one mile of the limits of any city or incorporated town; nor unless the proposed condemner has the right to operate by purchase, option to purchase or easement, at least seventy-five per cent in value of land acreage owned by persons or corporations situated within a radius of four miles from the mill, smelter or other works for the reduction of ores; nor beyond the limits of said four-mile radius; nor as to lands covered by contracts, easements or agreements existing between the condemner and the owner of land within said limit and providing for the operation of such mill, smelter or other works for the reduction of ores; nor until an action shall have been commenced to restrain the operation of such mill, smelter or other works for the reduction of ores.

(14) Buildings, grounds, lands and rights of way for use of private educational institutions of collegiate grade within the State of Utah which are not conducted for profit and which admit all students of the state meeting the academic and moral standards of such educational institutions.

Approved March 22, 1957.

CHAPTER 175

H. B. No. 98. (Passed February 27, 1957. In effect May 14, 1957.)

ATTORNEYS AND COUNSELORS—LICENSE FEES

An Act Amending Sections 78-51-21 and 78-51-22, Utah Code Annotated 1953, Relating to Attorneys and Counselors; Increasing License Fee.

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

Section 1. Sections Amended.

Sections 78-51-21 and 78-51-22, Utah Code Annotated 1953, are amended to read:

78-51-21. Annual License—Fees—Disbursement of Funds.

Every person practicing, or holding himself out as practicing, law within this state, or holding himself out to the public as a person qualified to practice or carry on the calling of a lawyer within this state, except justices of the Supreme Court, district judges, and judges of the United States courts, shall, prior to so doing and prior to the first day of April of each year pay to the Utah state bar a license fee of $5.00; *provided,* the board of commissioners shall have power to increase such fee to a sum not exceeding $25.00, as may be necessary for effectuating the purpose of this title. The sums so paid shall constitute, and be held by the state treasurer as, a separate fund, and shall be disbursed through the department of finance, upon presentation of the proper vouchers signed by the secretary of the Utah state bar. All moneys in said fund are hereby appropriated for the purposes of carrying out the objects of this title, and to pay all costs and expenses incurred therein or connected therewith.

78-51-22. Receipts—Form of License.

The secretary of the Utah state bar shall issue to each person paying said license fee, if such person shall have theretofore been admitted to practice law in this state by the Supreme Court and not disbarred or then under suspension, a license in such form as the board may prescribe, for the year for which fees were paid, and shall deliver such license to the person entitled thereto.

Approved March 5, 1957.

CHAPTER 176

S. B. No. 167. (Passed March 13, 1957. In effect May 14, 1957.)

SALARIES OF COURT REPORTERS

An Act Amending Section 78-56-3, Utah Code Annotated 1953, as Amended by Chapter 53, Laws of Utah 1955, Relating to Compensation of Court Reporters; and Increasing the Salary.

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

Section 1. Section Amended.

Section 78-56-3, Utah Code Annotated 1953, as amended by Chapter 53, Laws of Utah 1955, is amended to read:

78-56-3. Compensation—Travel Expenses—Time of Payment.

The compensation of court reporter shall be $6,000.00 per annum for attendance upon the sessions of the court. He shall also be paid his traveling expenses actually and necessarily incurred in the performance of his duties outside the county in which he resides. Such compensation and expenses shall be certified by the judge to the state auditor, who shall draw his warrant upon the state treasure for the amount so certified, and the same shall be paid monthly out of the state treasury.

Approved March 20, 1957.

APPROPRIATIONS

CHAPTER 177

H. B. No. 242 (Passed February 26, 1957. In effect May 14, 1957.)

APPROPRIATIONS ACT OF 1957

An Act Making Appropriations for the Support of the Utah State Government for the Period Beginning July 1, 1957, and Ending June 30, 1959, and Setting up Regulations and Restrictions Concerning Expenditures.

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

Section 1. Appropriations Act of 1957.

(1) This act shall be known and may be cited as the "Appropriations Act of 1957." All sums of money appropriated by this act are, unless otherwise herein specifically provided, for the period beginning July 1, 1957, and ending June 30, 1959.

(2) All of the monies appropriated by this act are appropriated upon the terms and conditions as hereinafter set forth, and any department, agency or institution which accepts monies appropriated by this act does so subject to the terms and provisions of this act and all other statutes of the State of Utah.

Section 2. Intent of Legislature.

In providing that certain appropriations in Section 13 of this act are to be expended in accordance with a schedule or other restrictions, if any, set forth after each such appropriations item, it is the intent of the legislature to limit thereby the amount of money to be expended from each such appropriations item for certain specified purposes. Each such schedule in this act is a restriction or limitation upon the expenditure of the respective appropriation made by this act, does not itself appropriate any money, and is not itself an item of appropriation. No appropriation nor any surplus of any appropriation shall be diverted from any department, agency, institution or division to which it is by this act appropriated, to any other department, agency, institution or division, and the money appropriated, or so much thereof as may be necessary, shall, in those instances where a schedule or restriction is set forth or prepared as herein provided, be used only for such purposes; except that if any department, agency or institution for which money is by this act appropriated shall request the transfer of monies appropriated to it from one classification or function to another classification or function within an item of appropriation, then the board of examiners may, in its discretion, permit such a transfer. Under no circumstances shall any monies be transferred from one item of appropriation to any other item of appropriation.

Section 3. No Duplication of Payment of Claims.

No claim against the state, the payment of which is provided for in this act, shall be duplicated and the amount herein appropriated for the payment of any such claim shall be withheld if it is covered by an appropriation heretofore made, or by special law.

Section 4. Transfers from General Fund to be by Proper Fiscal Officer.
Whenever appropriations are provided in this act to be made from special funds, the transfer of monies from such funds to the general fund or any other fund for budgetary purposes shall be made by the proper state fiscal officer, with the approval of the state auditor.

Section 5. Salaries to be Paid Semi-Monthly—Expenses Paid Monthly.
Salaries of all state officers and employees shall be paid semi-monthly. Expenses of state officers and employees shall be paid at least monthly.

Section 6. No Warrants to be Drawn Without Claims Having Been Processed Except for Wages or Compensation Fixed by Law.
(1) Except warrants for salaries or compensation of officers fixed by law, no warrant to cover any claim against any appropriation or fund shall be drawn until such claim has been processed as provided by law.
(2) The state treasurer shall return all redeemed warrants to the state fiscal officer for purposes of reconcilliation, post-audit and verification of the state treasurer's fund balances. The fiscal officer shall return all redeemed warrants to the state auditor for filing and post-auditing.

Section 7. Travel Allowances—Amount Authorized.
Allowances out of any of the appropriations for travel made in this act, to any and all of the state institutions, departments, bureaus and agencies, to elected officials, appointed officers and employees for expenses on account of the use by any such elected official, appointed officer or employee of his personal automobile in the discharge of his official duties shall be seven cents per mile of actual travel.

Section 8. Claims for Travel Outside State Must Have Prior Approval of Board of Examiners.
No claim shall be incurred for travel outside of the state, without the approval of the board of examiners, secured in advance of such travel; except that this provision shall not apply to the legislature.

Section 9. Duty to Deposit Funds.
(1) It shall be the duty of the several commissions, departments and agencies of state government having petty cash, imprest cash, or revolving funds now established, to deposit the full amount thereof with the state treasurer on or before June 30, 1957, or within thirty days thereafter.

(2) Before any new petty cash, imprest cash, or revolving funds shall be established, it shall be the duty of the commission, department or agency requesting such fund, or funds, to make application in writing to the state fiscal officer, setting forth the reasons therefor and stating the amount of and necessity for such fund.

(3) The state fiscal officer shall review such application and submit the same to the board of examiners with his recommendations and the board of examiners may establish such fund, or funds, from monies in the state treasury.

(4) All such funds established subsequent to July 1, 1957, shall be returned intact to the general fund on or before June 30, 1959, or within

thirty days thereafter.

(5) Revolving funds established for use of the Utah Water and Power Board shall not be subject to the provisions of this section.

Section 10. Close Out of Fund Accounts on Unexpended Balances. The state fiscal officer shall, on or before August 31, 1957, close out to the proper fund or account all unexpended balances of appropriations made by the 31st legislature for the period from July 1, 1955, to June 30, 1957, except that the unexpended sums of money heretofore appropriated to the state building board or the state board of examiners for building, planning or construction purposes, the state armory board trust fund, the marking of graves trust fund, the Utah Water and Power Board construction revolving fund and investigation fund shall not lapse or be closed out.

Section 11. Collections and Dedicated Credits to be Deposited Monthly. All departmental and institutional collections and dedicated credits which by law are required to be paid into the state treasury shall be deposited at least monthly and shall be credited by the proper state fiscal officer to the appropriations account of each department, institution, or agency responsible for such collections and dedicated credits. Such collections are dedicated credits shall be first allotted for expenditure to the extent of such collections. All collections and dedicated credits shall be subject to all provisions of law applicable to appropriated funds.

Section 12. Rules and Regulations. The state personnel officer shall promulgate and publish rules and regulations regarding the conduct and employment of state officers and employees covering working hours, overtime, sick leave, vacations and other matters of personnel policy and enforce such rules and regulations uniformly in all state departments. The personnel officer shall adopt rules and regulations enforcing provisions with regard to the establishment of salary schedules for all state departments and institutions and shall have the power to initiate or alter such salary schedules. No such salary schedule shall be put into effect until approved by the governor.

Section 13. Appropriations. The following sums of money, or so much thereof as may be necessary, are appropriated out of monies not otherwise appropriated from the funds herein indicated, for the use and support of the government of the State of Utah and for other purposes, as in this act and this section provided:

Item	1	To 33rd Legislature—Senate and House From the General Fund	$ 200,000.00
Item	2	To Utah Legislative Council From the General Fund	75,000.00
Item	3	To Supreme Court—Administration From the General Fund	220,180.00
Item	4	To Utah Code Compilation Commission From the General Fund	9,000.00
		To defray the cost of compiling, publishing and distributing supplements to the Utah Code Annotated 1953. Such supplement shall include omissions from and errors in the Utah Code	

Annotated 1953 as determined by the Commission. The Clerk of the Supreme Court shall make distribution of said supplements as provided for in Section 68-1-6, Utah Code Annotated 1953.

Item 5	To Governor—Office Administration	
	From the General Fund	94,000.00
Item 6	To Governor—Residence	
	From the General Fund	43,350.00
Item 7	To Governor—State Council of Defense Administration	
	From the General Fund	60,000.00
Item 8	To Governor—Special Investigations	
	From the General Fund	10,000.00
Item 9	To Governor—Extradition of Fugitives	
	From the General Fund	12,500.00
Item 10	To Board of Examiners—Administration	
	From the General Fund	2,450.00
Item 11	To Board of Examiners—Sheriffs Expense, Delivery of Prisoners	
	From the General Fund	1,500.00
Item 12	To Board of Examiners—Maintenance of Field House of Natural History at Vernal, Utah	
	From the General Fund	34,264.00
Item 13	To Secretary of State—Administration	
	From the General Fund	61,700.00
Item 14	To Secretary of State—Capitol Building and Grounds	
	From the General Fund	371,000.00
Item 15	To Attorney General—Commission on Uniform State Laws	
	From the General Fund	4,000.00
Item 16	To Secretary of State—Printing and Binding	
	From the General Fund	10,000.00
Item 17	To Supreme Court—Purchase of Utah Reports	
	From the General Fund	9,000.00
Item 18	To Secretary of State—Binding Public Documents	
	From the General Fund	600.00
Item 19	To Secretary of State—Daughters of Utah Pioneers Relics Maintenance	
	From the General Fund	5,000.00
Item 20	To Historical Society—Administration	
	From the General Fund	82,000.00
Item 21	To Historical Society—Maintenance of State Park, Fillmore, Utah	
	From the General Fund	7,000.00
Item 22	To Historical Society—Archives Division	
	From the General Fund	25,000.00
Item 23	To Attorney General—Administration	
	From the General Fund	198,300.00

Item 24 To State Board of Pardons
From the General Fund 38,500.00
Of this amount the sum of $3,500.00 is earmarked for return of parolees.

Item 25 To Attorney General—Escheat of Estates
From the General Fund 250.00

Item 26 To Attorney General—United Spanish-American War Veterans
From the General Fund 3,000.00

Item 27 To Attorney General—Civil War Veterans
From the General Fund 1,080.00

Item 28 To State Auditor—Administration
From the General Fund 25,000.00
From Special Funds:

Liquor Control Fund	26,000.00
Fish and Game Fund	26,000.00
Motor Vehicle Registration Fund	61,000.00
Motor Fuel Tax Fund	17,900.00
Land Grant Maintenance Fund	6,000.00

Item 29 To State Treasurer—Administration
From the General Fund 14,000.00
From Special Funds:

Liquor Control Fund	14,500.00
Fish and Game Fund	14,500.00
Motor Vehicle Registration Fund	34,000.00
Motor Fuel Tax Fund	10,000.00
Land Grant Maintenance Fund	3,000.00

Item 30 To Secretary of State—Bonds of Elective Officials
From the General Fund 10,000.00

Item 31 To Commission on Interstate Cooperation—For Utah Interstate Commission for Cooperation in Higher Education
From the General Fund 64,800.00

Item 32 To State Board of Education—Public School Administration
From the Uniform School Fund 285,000.00

Item 33 To State Board for Vocational Education—Rehabilitation
From the General Fund 140,000.00

Item 34 To State Board for Vocational Education—Vocational Education
From the General Fund 143,000.00

Item 35 To Superintendent of Public Instruction—Veterans On-the-Job Training
From the General Fund 5,000.00

Item 36 To State Board for Vocational Education—Metropolitan Area Vocational School
From the General Fund 550,000.00
Of this amount the sum of $125,000.00 is restricted for the purchase of equipment.

Item 37	To State Board for Vocational Education—Central Utah Vocational School		
	From the General Fund		410,000.00
Item 38	To Board of Corrections—Department of Adult Parole and Probation		
	From the General Fund		220,000.00
Item 39	To Adjutant General—National and State Guards		
	From the General Fund		96,607.00
Item 40	To State Armory Board—Armory Maintenance		
	From the General Fund		250,000.00
Item 41	To Board of Corrections—State Prison Administration		
	From the General Fund		1,665,000.00
Item 42	To Finance Commission—Administration and Social Security Administration		
	From the General Fund		201,500.00
	From Special Funds:		
	Motor Fuel Tax Fund	112,000.00	
	Fish and Game Fund	28,200.00	
	State Insurance Fund	8,000.00	
	Liquor Control Fund	23,000.00	
	Motor Vehicle Registration Fund	34,000.00	
	Land Grant Maintenance Fund	10,000.00	
Item 43	To State Land Board—Land Board Administration		
	From Land Grant Maintenance Fund	200,000.00	
Item 44	To Finance Commission—Insurance Fund Administration		
	From State Insurance Fund	320,000.00	
Item 45	To Finance Department—Utah School Employees Retirement Administration		
	From the General Fund		49,000.00
Item 46	To Finance Department—Beer Stamps		
	From the General Fund		500.00
Item 47	To Finance Department—Council of State Governments		
	From the General Fund		6,000.00
Item 48	To Finance Department—District Courts		
	From the General Fund		598,800.00
Item 49	To Finance Department—Juror's and Witness' Fees		
	From the General Fund		90,000.00
Item 50	To Finance Department—Fire Insurance Premiums		
	From the General Fund		11,400.00
Item 51	To Public Welfare Commission—Administration and Public Assistance		
	From the General Fund		16,270,000.00

Plus the unexpended balance of appropriation made by the 31st Legislature as contained in Item 51, Chapter 164, Laws of Utah 1955.

Item 52 To State Road Commission—Administration and Maintenance
From Highway Construction and Maintenance Fund 15,586,350.00

Item 53 To State Road Commission—
There is appropriated to the State Road Commission, from funds in the Highway Maintenance and Construction Fund not otherwise appropriated, a sum sufficient, but not more than the surplus of the Highway Maintenance and Construction Fund, to be used by the State Road Commission to participate in and cooperate with the federal government for the construction of federal designated highways, and the state highway system, as provided by law, except, that no portion of the money appropriated by this item shall be used, either directly or indirectly, to enhance or increase the appropriations otherwise made by this act to the Department of Engineering or the State Road Commission for other purposes.

Item 54 To State Road Commission—
It is hereby expressly provided that all monies received by the State Road Commission as reimbursements on cooperative agreements or from grants-in-aid from the federal government shall immediately, upon receipt thereof, be deposited with the State Treasurer to the credit of the State Highway Construction and Maintenance Fund, and no part thereof shall be credited to any operation for which appropriations are made in this act except as provided in Item No. 53.

Item 55 To Business Regulations—Administration and Services

From the General Fund		245,000.00
From Special Funds:		
Motor Vehicle Registration Fund	45,000.00	
Securities Commission Fees	17,500.00	
Public Utility Regulation Fees	142,500.00	

Item 56 To Business Regulations—Public Service
The unexpended balance of appropriations made by the 31st Legislature as contained in Item 55, Section 14, Chapter 164, Laws of Utah 1955.

Item 57 To Business Regulations—Banking Regulations
From the Financial Institutions Fund 141,020.00

Item 58 To Industrial Commission—Administration
From the General Fund 250,000.00

Item 59	To Department of Agriculture—Administration and Services		
	From the General Fund		496,000.00
Item 60	To Department of Agriculture — Forestry and Fire Control		
	From the General Fund		35,000.00
Item 61	To Department of Agriculture—Livestock Shows		
	From the General Fund		40,000.00
Item 62	To Department of Agriculture—Soil Conservation		
	From the General Fund		27,500.00
Item 63	To Department of Agriculture—Meat Inspection		
	From the General Fund		80,000.00
Item 64	To Department of Health—Administration and Services		
	From the General Fund		1,290,000.00
	Plus Departmental Collections		
Item 65	To Department of Health—Water Pollution Control		
	From the General Fund		50,000.00
Item 66	To Tax Commission—Administration		
	From the General Fund		862,000.00
	From Special Funds:		
	Motor Fuel Tax Fund	99,000.00	
	Motor Vehicle Registration Fund	650,000.00	
	Motor Vehicle Control Fund	286,000.00	
	Uniform School Fund	572,000.00	
Item 67	To Tax Commission—Motor Vehicle Dealer's Administration		
	From Motor Vehicle Dealer's Administration Fund	70,000.00	
Item 68	To Tax Commission—Inheritance Tax Appraiser's Fees		
	From the General Fund		25,000.00
Item 69	To Fish and Game Department—Administration		
	From Fish and Game Fund	1,300,000.00	
Item 70	To Fish and Game Department—Fisheries Management		
	From Fish and Game Fund	1,175,000.00	
Item 71	To Fish and Game Department—Game Management		
	From Fish and Game Fund	640,000.00	
Item 72	To Fish and Game Department—Federal Aid Programs		
	From Fish and Game Fund	1,000,000.00	
Item 73	To Liquor Control Commission—Administration		
	From Liquor Control Fund	1,714,000.00	
Item 74	There is appropriated to the Liquor Control Commission from monies in the Liquor Control		

Fund not otherwise appropriated, a sum sufficient for the purchase and payment of liquor, including freight and federal taxes thereon, except, that at no time shall such purchases or commitments to purchase exceed the current unencumbered balance of the Liquor Control Fund; and it is further provided that no money appropriated by this item shall be used to increase or enhance, directly or indirectly, any other appropriation made by this act for other purposes.

Item 75	To Criminal Identification Bureau—Administration	
	From the General Fund	33,500.00
Item 76	To University of Utah—Administration, research, experiment station, extension division and Stewart Training School	
	From the General Fund	8,300,000.00
Item 77	To University of Utah—Medical School	
	From the General Fund	1,115,000.00
Item 78	To University of Utah—Geological and Mineralogical Survey	
	From the General Fund	40,000.00
Item 79	To Utah State Agricultural College—Administration	
	From the General Fund	5,000,000.00
Item 80	To Utah State Agricultural College—Extension Division	
	From the General Fund	700,000.00
Item 81	To Utah State Agricultural College—Experimental Station	
	From the General Fund	1,000,000.00
Item 82	To College of Southern Utah—Administration and Research	
	From the General Fund	690,000.00
	Of this amount $83,000.00 is restricted for special repairs and maintenance.	
Item 83	To Carbon Junior College—Administration	
	From the General Fund	339,000.00
Item 84	To Dixie Junior College—Administration	
	From the General Fund	296,000.00
Item 85	To Snow Branch College—Administration	
	From the General Fund	430,000.00
	Of this amount $54,500.00 is restricted for special repairs and maintenance.	
Item 86	To Weber Junior College—Administration	
	From the General Fund	1,600,000.00
Item 87	To Deaf and Blind School—Administration	
	From the General Fund	550,000.00
Item 88	To Adult Blind School—Administration	
	From the General Fund	168,000.00

Revolving funds heretofore appropriated by the 31st Legislature shall not lapse or be closed out.

Item 89 To Department of Public Safety —Highway Patrol Administration and Operation
From Motor Fuel Tax Fund..... 1,800,000.00

Item 90 To Department of Public Safety —To check motor vehicles at motor vehicle checking stations operated under direction of Highway Patrol
From Motor Vehicle Registration Fund 157,000.00
From Motor Fuel Tax Fund.... 316,000.00

Item 91 To Department of Public Safety —For Drivers' License Examinations
From Vehicle Control, Drivers' License Fund 349,000.00

Item 92 To Department of Public Safety —Safety Education & Promotion
From Motor Fuel Tax Fund..... 35,000.00

Item 93 To Department of Public Safety —Highway Patrol Civil Service Commission
From Motor Fuel Tax Fund..... 6,000.00

Item 94 To Department of Public Safety —Safety and Financial Ressponsibility Administration
From Motor Vehicle Registration Fund 93,000.00

Item 95 To State Fair Board—Administration
From the General Fund..... 50,000.00

Item 96 To State Board on Alcoholism—Administration
From the General Fund..... 90,000.00

Item 97 To Utah Tourist and Publicity Council
From Motor Fuel Tax Fund..... 200,000.00
Schedule:
Administration 30,000.00
Advertising 170,000.00

Item 98 To Aeronautics Commission— Civil Air Patrol
From the Aeronautics Fund..... 10,000.00

Item 99 To Building Commission—Administration
From the General Fund..... 59,800.00

Item 100 To State Engineer—Office Administration and Services
From the General Fund..... 800,000.00

Item 101 To Juvenile Court—Administration
From the General Fund 460,000.00

Item 102 To Industrial School—Administration
From the General Fund 934,856.00

Item 103 To State Training School—Administration
From the General Fund 1,650,000.00

Item 104 To State Hospital—Administration
From the General Fund 3,900,000.00

Item 105 To Tuberculosis Hospital—Administration
From the General Fund 425,000.00

Item 106 To Children's Aid Society—Administration
From the General Fund 18,000.00

Item 107 To Children's Service Society—Administration
From the General Fund 44,000.00

Item 108 To Neighborhood House—Administration
From the General Fund 6,000.00

Item 109 To Art Institute—Administration
From the General Fund 20,000.00

Item 110 To General Fund—Capitol Building and Grounds Maintenance
From Special Funds:

Motor Vehicle Control Fund	6,000.00
Motor Vehicle Registration Fund	11,000.00
Motor Fuel Tax Fund	16,500.00
Uniform School Fund	8,500.00
Land Grant Maintenance Fund	4,500.00
Financial Institution Fund	1,500.00
State Insurance Fund	5,500.00
Public Utilities Regulation Fees	7,500.00
Vehicle Control—Drivers License Fund	3,500.00

Item 111 To Department of Health—Poliomyelitis and Children's Crippling Diseases Hospital Administration
From the General Fund 225,000.00

Item 112 To Utah Water and Power Board—Administration and Projects
From the General Fund 260,000.00

Item 113 To Utah Water and Power Board—Defending Water Rights
From the General Fund 16,000.00

Item 114 To "This Is The Place" Monument Commission
From the General Fund 34,000.00

Item 115 To Finance Commission—One-half Cost Maps and Plats
From the General Fund 52,920.00

Item 116 To Historical Society—Military Record Section of Utah Archives for Marking Graves
From the General Fund 18,800.00

Item 117 To Secretary of State—Maintaining Governor's Mansion, 603 E. South Temple, Salt Lake City, Utah
From the General Fund 20,000.00

Item 118 To Aeronautics Commission—Administration
From the Aeronautics Fund 56,700.00
Schedule:
Personal Services 32,000
Travel and other expenses 24,700
The sum of $12,000 included in personal services is restricted for the salary of an assistant director. In the event an assistant director is not appointed, such amount shall revert to the Aeronautics fund.

Item 119 To Utah Water and Power Board—Small Projects Construction Revolving Fund
From the General Fund 1,000,000.00

Item 120 To Attorney General—Miscellaneous Claims
The Attorney General shall deliver warrants against the following appropriations only upon a complete release by all parties to each claim for present and future damage, where such is involved, executed to the State of Utah upon forms prescribed by the Attorney General.
From the General Fund 19,387.81
Schedule:

Bennett's, Salt Lake City	15.52
Fuller-Toponce Truck Co., Ogden, Utah	47.48
Campbell Ambulance Service, Ogden	12.00
Westinghouse Supply Co., Salt Lake	10.49
Todd Co., Rochester, New York	10.15
Carl Soderberg, Ogden	200.00
Sinclair Refin. Co., Kansas City, Mo.	23.81
Salt Lake City Corporation	211.76
Mrs. Melvin Keith Johnson, Brigham	24.32
Utah Sprocket Co., Salt Lake	73.87
Salt Lake County, Witness Fees	116.75
Zion Motors Inc., Murray	43.12
Earle Cecil Barber, c/o Dwight L. King, Salt Lake	1,104.00
Bird and Evans, Inc., Salt Lake c/o Pugsley, Hayes and Rampton	10,500.00
Lee Deffebach, Salt Lake	25.00
George B. Caine, Logan	136.50
Weber College, Weber County	590.00
Westinghouse Elec., Baltimore, Md.	159.72

Utah State Agency for Surplus Property, Salt Lake	466.69	
Lehi Roller Mills Co., Lehi	892.50	
Arlen Ray Peacock, Salt Lake	435.00	
Utah State Agency for Surplus Property, Salt Lake	2,789.13	
Lee W. Dalebout, Salt Lake	500.00	
Glen W. Crosby, Ogden	1,000.00	
From the State Highway Fund		44,537.42
Schedule:		
Sinclair Refining Co., Kansas City, Missouri	90.46	
Lloyd Jackson dba Jackson and Sons, Salt Lake	2,450.00	
Edward T. Heslop and Lillie A. Heslop, Tremonton, c/o Walter Mann	5,000.00	
R. E. Christoffersen, Logan	21.96	
Benjamin K. Hess and Imogene R. Hess, Monticello, c/o L. Robert Anderson	22,500.00	
For full release of existing and future damages.		
Walker Bank and Trust Co., Exec. for H. T. Plumb, Salt Lake	5.00	
L. T. Johnson Const. Co., Ogden	120.00	
George B. Alder, Woods Cross	3,250.00	
For full release of existing and future damages.		
Ralph James, Woods Cross	4,900.00	
For full release of eixsting and future damages.		
Melvin W. Wood, Woods Cross	6,200.00	
For full release of existing and future damages.		
From the Fish and Game Fund		1,890.90
Schedule:		
Auston Johnson, Jr.	100.00	
Utah Power & Light Co., Ogden	110.25	
Don C. Clyde, Heber	132.68	
Layton Painting & Decorating Co., Layton	561.38	
E. N. Larsen, Arcadia, California	41.15	
Joseph F. Barrett, Salt Lake	50.00	
Grover Austad, c/o Elias L. Day	600.40	
John Heiner, Heiner Garage, Morgan	295.04	
From the Motor Vehicle Registration Fund		7.50
Schedule:		
Willis H. Proctor, Salt Lake	7.50	
From the Land Grant Maintenance Fund		13,628.96

Schedule:
Vera Perkins, Administratrix of estate of J. M. Perkins, Sevier County, c/o Elliott W. Evans.....12,500.00
For full release.
Jesse N. Charles, c/o Elias L. Day.... 1,128.96
From the Public Employees Retirement Fund.... 2,000.00

Schedule:
Floyd Bell, Richfield..... 2,000.00
Retirements benefits from the period July 1, 1952 to July 1, 1957
From the Liquor Control Fund..... 10.00

Schedule:
B. G. Clay, Salt Lake..... 10.00

Item 121 To deficit appropriations allowed by the Board of Examiners pursuant to Sections 63-6-19 and 63-6-20, Utah Code Annotated 1953.
From the General Fund..... 1,518,747.41

Schedule:

Governor	3/17/55	3,500.00
Adj. General's Office	3/22/55	4,061.00
Supreme Court	3/22/55	7,400.00
Secretary of State Printing and Binding	4/ 6/55	5,000.00
Central Utah Vocational School	4/14/55	12,325.00
Finance Commission District Courts	4/26/55	46,500.00
Governor	6/29/55	1,600.00
Central Utah Vocational School	8/26/55	7,797.46
Salt Lake Area Vocational School	8/30/55	1,115.00
State Fair Association	1/12/56	5,000.00
State Armory Board	1/16/56	5,800.00
Secretary of State Capitol Bldg. Repairs	1/17/56	2,000.00
Secretary of State Bind. Pub. Documents	2/ 9/56	125.00
Secretary of State Capitol Bldg. Repairs	2/ 9/56	4,500.00
Civil Defense Council	3/ 6/56	30,000.00
Secretary of State Capitol Bldg. Repairs	3/ 6/56	13,782.87
Water and Power Board	4/ 4/56	15,000.00
State Fair Association	4/ 4/56	12,000.00
State Fair Association	4/ 4/56	120,000.00
Dixie College	5/ 4/56	175,000.00
Utah State Hospital	5/ 8/56	225.00

Secretary of State			
Capitol Bldg. Repairs..	5/ 8/56	4,000.00	
Civil Defense Council....	5/18/56	5,000.00	
Snow College	6/ 5/56	28,200.00	
Secretary of State			
Capitol Bldg. Repairs..	6/14/56	3,000.00	
Weber College	6/29/56	250,000.00	
Secretary of State			
Capitol Bldg. Repairs..	7/ 2/56	24,000.00	
State Fair Association..	7/11/56	75,000.00	
Board of Forestry and			
Fire Control	7/19/56	7,495.00	
Central Utah Vocational			
School	7/27/56	100,000.00	
Board of Education.....	8/ 7/56	30,000.00	
Board of Education.....	8/ 7/56	93,000.00	
Salt Lake Area Vocational			
School	8/ 7/56	20,000.00	
Central Utah Vocational			
School	8/14/56	25,000.00	
Attorney General	9/14/56	100.00	
State Armory Board....	9/17/56	100,000.00	
State Armory Board.....	9/17/56	20,000.00	
State Armory Board.....10/22/56		100,000.00	
Weber College 10/31/56		3,500.00	
Utah Commission for			
the Blind 11/ 8/56		11,000.00	
Board of Forestry and			
Fire Control 12/ 4/56		1,975.00	
Public Safety—Drivers			
License Division 12/ 4/56		46,650.00	
University of Utah.....12/ 6/56		40,000.00	
Governor 12/14/56		3,200.00	
State Fair Association....12/19/56		29,146.08	
Utah School Employees			
Retirement System	1/ 2/57	7,250.00	
Board of Forestry and			
Fire Control	1/ 2/57	18,500.00	
From Land Grant Maintenance Fund.....			3,143.00
Schedule:			
State Land Board	9/24/56	3,143.00	

Section 14. Appropriation to General Fund from Public Welfare Reserve Fund.

There is appropriated to the General Fund the sum of $5,000,000.00 from the public welfare reserve fund created by Section 19, Chapter 165, Laws of Utah 1955.

Section 15. Withdrawal of Funds Appropriated Under Section 13 to be Utilized Before any Continuing or Other Appropriation.

The amounts appropriated in Section 13 of this act from special funds shall take effect and the quarterly allotments shall be withdrawn prior to any continuing appropriation provided for by general or special law.

Section 16. Amounts Represent Complete Appropriation Expenditures Authorized—Curtailment of Programs.

The amounts appropriated in Section 13 of this act represent the complete appropriation expenditure authorized for the department concerned, unless otherwise indicated. Each department shall make such modifications in its administrative practices and changes in its various accounts, including personal services, travel, current expenses, capital outlay, and such other expenditures in its operation, as required to keep within its 1957-1959 budget appropriation. When the amount appropriated is less than requested, or less than proposed for its budget, said department shall consult its governing board, or, if none, the Board of Examiners, (provided the Legislature is not in session) to determine what modifications shall be necessary in its budget. These may include curtailment or elimination of present or proposed programs.

If an extraordinary emergency occurs, which requires deficit expenditures in addition to funds appropriated herein, the department having such emergency shall make timely application, as provided by Section 63-6-19, Utah Code Annotated 1953, to the Board of Examiners for any funds needed to meet the expenditure resulting from such emergency.

Section 17. Constitutionality.

If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The Legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional.

Approved March 1, 1957.

CHAPTER 178

H. B. No. 243. (Passed March 1, 1957. In effect March 6, 1957.)

SUPPLEMENTAL APPROPRIATION FOR BIENNIUM 1955-57

An Act Making Appropriations for the Biennium Ending June 30, 1957, in Addition to Appropriations Made in Section 14, Chapter 164, Laws of Utah 1955, to Certain Departments and Agencies of State Government, and Making Appropriations for other Specified Purposes.

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

Section 1. Supplemental Appropriations.

The following sums of money, or so much thereof as may be necessary, are appropriated out of monies not otherwise appropriated from the funds herein indicated, in addition to appropriations, if any, made in Section 14, Chapter 164, Laws of Utah 1955, for the use and support of certain state departments and agencies, and for other purposes, as in this act and this section provided.

Item 1	To 31st Legislature — Senate and House overdraft		
	From the General Fund		$ 34,482.34
Item 2	To 32nd Legislature—Senate and House		
	From the General Fund		50,000.00
Item 3	To Finance Department—District Courts		
	From the General Fund		35,000.00
Item 4	To Board of Corrections—State Prison		
	From the General Fund		210,000.00
Item 5	To Utah State Agricultural College—Administration		
	From the General Fund		120,000.00
Item 6	To Snow College — Administration		
	From the General Fund		40,000.00
Item 7	To College of Southern Utah—Administration		
	From the General Fund		75,000.00
Item 8	To Department of Public Safety— Safety Education and Promotion		
	From the Motor Fuel Tax Fund	$ 500.00	
Item 9	To Department of Public Safety— Highway Patrol Administration and Operation		
	From the Motor Fuel Tax Fund	128,000.00	
Item 10	To Utah State Hospital—Administration		
	From the General Fund		197,000.00
Item 11	To Adjutant General—National and State Guards		
	From the General Fund		4,523.88
Item 12	To State Armory Board—Armory Maintenance		
	From the General Fund		20,454.45
Item 13	To Governor—State Prison Investigation		
	From the General Fund		5,000.00
Item 14	To Secretary of State—Governor's Inaugural Expenses		
	From the General Fund		1,109.55
Item 15	To State Engineer—Administration		
	From the General Fund		79,829.00
Item 16	To State Tax Commission—Administration		
	From the General Fund		32,300.00
	From Special Funds:		
	Motor Vehicle Registration Fund	88,200.00	
	Motor Fuel Tax Fund	14,500.00	
Item 17	To Finance Department— State Insurance Fund		
	From the State Insurance Fund	18,000.00	
Item 18	To Secretary of State—Capitol Building and Grounds Operations		
	From the General Fund		26,114.00
Item 19	To Secretary of State—Capitol Building and Grounds		
	From the General Fund		19,000.00

Schedule:
Curb, Gutter and Sidewalk
Improvements ..... $ 10,000.00
Fire Alarm System at Daughters of
Utah Pioneers Museum 7,000.00
Carpeting and Pads for Governor's
Board Room 2,000.00

Item 20 To Governor—Printing Budget
From the General Fund 4,750.00

Item 21 To Lewis H. Lloyd—For Special Services Performed for the Utah Legislature
From the General Fund 1,000.00

Item 22 To Department of Agriculture—Soil Conservation
From the General Fund 3,650.00

Item 23 To Deaf and Blind School—Administration
From the General Fund 7,500.00

Item 24 To Central Utah Vocational School—Administration
From the General Fund 56,327.03

Item 25 To Supreme Court—Administration
From the General Fund 10,000.00

Section 2. Effective Date.

This act shall take effect upon approval.

Approved March 6, 1957.

CHAPTER 179

H. B. No. 245. (Passed March 12, 1957. In effect May 14, 1957.)

SUPPLEMENTAL APPROPRIATION BILL AMENDING H. B. 242

An Act Amending House Bill No. 242 of the 32nd Legislature, as Passed by Both Houses and Signed by the Governor, Relating to Appropriations to State Departments, Agencies, Commissions and Institutions by Enacting New Sections to be Known as Sections 18, 19 and 20, and Making Certain Appropriations.

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

Section 1. Supplemental Appropriations — Additions to Appropriations Bill.

House Bill No. 242 of the 32nd Legislature of the State of Utah, as passed by both houses and signed by the governor, is amended by enacting new sections to be known as sections 18, 19 and 20 to read:

Section 18. Appropriations.

The following sums of money, or so much thereof as may be necessary, are appropriated from the funds herein indicated, for purposes as in this act and this section provided:

Item 1 To Secretary of State—For microfilming public records and historical documents for permanent preservation.
From the General Fund ..... $ 9,700.00

Item 2 To State Parks Commission — For the purposes set forth in Senate Bill No. 62 of the 32nd Legislature, provided such bill is enacted into law.
From the General Fund..... 50,000.00

*

Item 3 To State Board of Education—
Educational Research
From the Uniform School Fund.....$ 20,000.00
The State Board shall notify the Legislative Council of research projects undertaken and their completion.

*

Item 4 To State Building Board—Administration
From the General Fund..... 20,000.00
This appropriation is in addition to the appropriation made in Item 99, Section 13, House Bill No. 242 of the 32nd Legislature and is contingent upon the enactment into law of Senate Bill No. 189 of the 32nd Legislature.

*

Item 5 To State Board of Education—Television, Channel 7
From the General Fund..... 100,000.00
This appropriation to be used for the cost of prorata hourly broadcasting time for educational agencies, other than the University of Utah, which use Educational Television Channel 7, according to program assignments made by the Utah Educational Television Foundation.

Item 6 To State Tax Commission—Uniform Accounting
From the General Fund..... 45,000.00
For the purposes set forth in House Bill No. 12 of the 32nd Legislature as enacted into law.

Item 7 To Utah Legislative Council—For reimbursement of expenses of the Utah Conference on Education and the White House Conference on Education advanced by the Legislative Council from its appropriation contained in Item 2, Section 14, Chapter 164, Laws of Utah 1955, at the request of the governor in 1955.
From the General Fund..... 5,004.09
This appropriation shall become available upon the effective date of this act.

Item 8 To State Treasurer—For expenses necessary in administering the provisions of Senate Bill No. 77 of the 32nd Legislature as enacted into law.
From the General Fund..... 7,500.00

*Vetoed by Governor.

This appropriation shall become available upon the effective date of this act. The unexpended portion of this appropriation shall not lapse or be closed out at the close of the biennium ending June 30, 1957.

Item 9 To Board of Correction—State Prison Administration
From the General Fund..... 25,000.00
This appropriation is in addition to the appropriation made in Item 41, Section 13, House Bill 242 of the 32nd Legislature.

Item 10 To Public Welfare Commission — Purchase of land and water at State Training School
From the General Fund..... 45,000.00
For the purchase of 94.62 acres of land located immediately north of the State Training School, including 69½ shares of primary, 1½ shares of secondary, and 1½ shares of third class stock in the American Fork Irrigation Company.

Item 11 To Dixie College—Administration
From the General Fund..... 3,500.00
This appropriation shall become available upon the effective date of this act and is in addition to Item 84, Section 14, Chapter 164, Laws of Utah 1955.

Item 12 To Oscar L. Parry, C. Royal Parry, Lucile Donahue and Myrtle Wells
From the Highway Fund..... 1,060.50
For road building material.

Item 13 In providing an appropriation to the state treasurer, in Item 29, Section 13, House Bill No. 242 of the 32nd Legislature, from the Fish and Game Fund in the amount of $14,500.00, it is hereby provided that such amount shall be appropriated as follows:
From the Fish and Game Fund..... 1,000.00
From the State Insurance Fund..... 13,500.00

Section 19. Appropriation in Event of Passage of Senate Bill 131.
In the event that Senate Bill No. 131 of the 32nd Legislature is enacted into law, there is hereby appropriated to the Board of Examiners from the General Fund for the purpose of allowing deficit emergency expenditures as provided in Sections 63-6-19 and 63-6-20, Utah Code Annotated 1953, as amended by Senate Bill No. 131 of the 32nd Legislature, a sum not to exceed $500,000.00 for the period July 1, 1957 to June 30, 1959. Expenditures from this appropriation shall be made only upon the unanimous vote of the Board and only for purposes already authorized by legislative appropriations.

Section 20. Appropriation to Uniform School Fund.
There is hereby appropriated to the Uniform School Fund from the General Fund to assist in financing the state's portion of the minimum school program as provided by law, the following sums:

For the period July 1, 1957 to June 30, 1958.....$3,600,000.00
For the period July 1, 1958 to June 30, 1959.....$7,850,000.00

Provided, that if Senate Bill No. 33 of the 32nd Legislature is enacted into law, an additional sum of $800,000.00 is hereby appropriated for the period July 1, 1957 to June 30, 1959, and *provided further,* that if Senate Bill No. 61 of the 32nd Legislature is enacted into law, an additional sum of $250,000.00 is hereby appropriated for the period July 1, 1957 to June 30, 1959.

If revenues to the General Fund are not sufficient to permit transfers to the Uniform School Fund as herein provided by appropriation, the state fiscal officers, with the approval of the Board of Examiners, shall withhold such transfers for the period July 1, 1957 to June 30, 1959, as in their judgment the available revenues justify, after other appropriations made by law have been allowed.

Approved March 26, 1957.

CHAPTER 180

H. B. No. 244. (Passed March 12, 1957. In effect March 15, 1957.)

APPROPRIATION TO STATE PRISON

An Act Appropriating to the State Prison the Sum of $50,000.00 for Repair of Damages and Destruction Resulting from the Prison Riot of February 6, 1957, and the Sum of $4,200.00 for Administrative and Personnel Services for the Period Beginning April 1, 1957 to June 30, 1957, and Appropriating the Sum of $12,121 to the Utah State Treasurer for the Biennium Ending June 30, 1957.

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

Section 1. Appropriation to State Prison to Repair Riot Damage.

There is hereby appropriated to the State Prison from the general fund, out of moneys not otherwise appropriated, the sum of $50,000.00, or so much thereof as may be necessary, for the repair of damage and destruction resulting from the prison riot of February 6, 1957.

Section 2. Appropriation to State Prison — Administrative Service.

There is hereby appropriated to the State Prison from the general fund, out of moneys not otherwise appropriated, the sum of $4,200.00, or so much thereof as may be necessary, for administrative and personnel services for the period April 1, 1957 to June 30, 1957.

Section 3. Appropriation to Utah State Treasurer — Administrative Expense.

There is appropriated to the Utah State Treasurer from the general fund, out of monies not otherwise appropriated, the sum of $12,121, or so much thereof as may be necessary, for administrative expenses in addition to the amount appropriated in Item 29, Section 14, Chapter 164, Laws of Utah 1955, for the biennium ending June 30, 1957.

Section 4. Effective Date.

This act shall take effect upon approval.

Approved March 15, 1957.

CHAPTER 181

S. B. No. 266. (Passed February 27, 1957. In effect July 1, 1957.)

APPROPRIATION TO STATE BUILDING BOARD

An Act Making Appropriations to the State Building Board for Building Construction Projects and for Other Projects; Providing for Allocations and Schedules; and Specifying the Authorization for Contracting for Construction.

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

Section 1. Appropriation to State Building Board.
There is appropriated to the state building board from the general fund, out of monies not otherwise appropriated, the following sums of money, or so much thereof as may be necessary in each case, for the uses and purposes indicated; said money to become available by transfers to the state building board by the state fiscal officer as state revenues become available in the general fund.

1. Snow College ..... $ 200,000.00
   For heating plant expansion and land purchases; and for constructing section of industrial arts, home economics and music building, not to exceed $600,000.00 when completed.
2. College of Southern Utah ..... $ 200,000.00
   For renovation of old shop building; and for constructing section of classroom and administration building, not to exceed $900,000.00 when completed.
3. Carbon College ..... $ 200,000.00
   For constructing section of an auditorium building, not to exceed $350,000.00 when completed.
4. Dixie College ..... $ 200,000.00
   For campus improvements, purchase of land and other improvements; and for constructing section of an auditorium and multi-purpose building, not to exceed $700,000.00 when completed; and heating plant construction.
5. Weber College ..... $ 525,000.00
   For purchase of land and campus improvements; and for constructing section of physical education building, not to exceed $1,250,000.00 when completed.
6. Salt Lake Area Vocational School ..... $ 100,000.00
   For special repairs and improvements to existing plant.
7. Central Utah Vocational School ..... $ 10,000.00
   For planning a building program.
8. Deaf and Blind School ..... $ 27,000.00
   For new water and sewage mains and facilities.
9. Utah State Agricultural College $1,750,000.00
   For the following purposes:
   a. For fruit storage and packing

building, North Ogden, animal metabolism building, residence and well construction at Cedar City experiment farm ..... $ 100,000.00

b. For constructing an operable unit of a forestry and biological science building, not to exceed $2,250,000.00 when completed; and for constructing an operable unit of an engineering and physical science building, not to exceed $2,350,000.00 when completed $1,650,000.00

10. University of Utah $3,300,000.00
For the following purposes:

a. For additions to central heating plant ..... $ 150,000.00

b. For constructing an operable unit of an education building, not to exceed $1,250,000.00 when completed; for constructing an operable unit of an engineering building, not to exceed $1,300,000.00 when completed; and for furnishing Orson Spencer Hall and campus grading and landscaping $1,150,000.00

c. For planning and initial construction of classrooms, laboratories, teaching and research facilities for a medical center, not to exceed $4,000,000.00 as the state's share when completed $1,500,000.00

d. For Salt Lake Memorial Theatre replica building, *provided* that no portion of this sum shall be expended until money in the sum of $600,000.00 has become available for the same purpose from private sources ..... $ 500,000.00

11. State Industrial School ..... $ 410,000.00
For the following purposes:

a. For constructing security building, not to exceed $325,000.00 when completed ..... $ 325,000.00

b. For constructing a Boys Cottage $ 85,000.00

12. State Training School ..... $ 225,000.00
For the following purposes:

a. For farm dormitory, not to exceed $175,000.00 when completed ..... $ 175,000.00

	b. For boiler installation and building remodeling	$ 50,000.00	
13.	State Tuberculosis Hospital For special installations and repairs.		$ 61,000.00
14.	State Hospital For special repairs to existing plant and addition to Hyde Building; and for constructing section of receiving and treatment center, not to exceed $2,700,000.00 when completed.		$ 879,000.00
15.	Utah State Prison For farm dormitory and for constructing section of a maximum security facility.		$ 600,000.00
16.	Utah State Fair For special repairs.		$ 25,000.00
17.	Utah National Guard For armory construction.		$ 56,000.00

Section 2. Authorization to Contract.

The State Building Board shall be authorized to contract for the complete construction of a project provided for in this act even though the money appropriated or available in the current biennium is not sufficient to pay for the completed facility. The specifications covering said contract shall specify the funds available for the contractor in the current biennium with the further provision that additional payments will be contingent upon the appropriation of subsequent funds by the Legislature.

Section 3. Effective Date.

This act shall take effect July 1, 1957.

Approved March 7, 1957.

CHAPTER 182

S. B. No. 269. (Passed March 11, 1957. In effect July 1, 1957.)

AMENDING S.B. 266 APPROPRIATION TO STATE BUILDING BOARD

An Act Amending Senate Bill No. 266 of the 32nd Legislature of the State of Utah, as Passed by Both Houses and Signed by the Governor, Relating to Appropriations to State Institutions and Agencies for Building Construction and Other Purposes by Enacting a New Section to be Known as Section 4, Specifying Certain Conditions.

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

Section 1. Section Amended.

Senate Bill No. 266 of the 32nd legislature of the State of Utah, as passed by both houses and signed by the governor, is amended by enacting a new section to be known as Section 4 to read:

Section 4 Appropriation to Utah State Prison as Approved by State Board of Examiners.

In providing an appropriation to the Utah state prison in Item 15, Section 1, Senate Bill No. 266 of the 32nd Legislature, it is hereby provided that such appropriation is for repairs, alterations, improvements and new construction at the Utah state prison as approved by the state board of examiners.

Section 2. Effective Date.

This act shall take effect July 1, 1957.

Approved March 18, 1957.

CHAPTER 183

S. B. No. 90. (Passed February 21, 1957. In effect March 1, 1957.)

APPROPRIATION TO BOARD OF EXAMINERS TO BUILD UNIVERSITY OF UTAH CHEMICAL ENGINEERING DEPARTMENT BUILDING

An Act Correcting an Appropriation of $250,000 from the General Fund to the State Board of Examiners to Construct a Building for the University of Utah to House Facilities of the Chemical Engineering Department; and an Emergency Clause.

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

Section 1. Purpose of Act — Corrected.

The purpose of this act is to correct an erroneously described appropriation made by Chapter 131 of Laws of Utah 1955 whereby an appropriation of $250,000.00 from the general fund was made to the state board of examiners to construct for the University of Utah "an addition to the ore dressing laboratory," when the appropriation was intended to construct a building to house facilities of the chemical engineering department.

Section 2. Appropriation to Construct Building to House Facilities of Chemical Engineering Department.

There is appropriated to the state board of examiners from the general fund, out of monies not otherwise appropriated, the sum of $250,000.00, or so much thereof as may be necessary, for the use of the University of Utah to construct a building to house facilities of the chemical engineering department.

Section 3. Appropriation Withdrawn.

The uncommitted portion of the appropriation made by Chapter 131, Laws of Utah 1955 of $250,000.00 from the general fund to the board of examiners for the use of the University of Utah to "construct an addition to the ore dressing laboratory" is withdrawn from the board of examiners and shall be returned to or remain in the general fund.

Section 4. Effective Date.

This act shall take effect upon approval.

Approved March 1, 1957.

CHAPTER 184

S. B. No. 59. (Passed February 27, 1957. In effect March 4, 1957.)

APPROPRIATION TO STATE BOARD ON ALCOHOLISM

An Act Appropriating to the State Board on Alcoholism the Sum of $15,900.00 from the General Fund of the State Treasury for the Purpose of Defraying Costs of Administration During the Remainder of the Present Biennium; and an Emergency Clause.

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

Section 1. Appropriation to Utah State Board on Alcoholism.
There is appropriated out of any moneys in the general fund not otherwise appropriated, the sum of $15,900.00, or so much thereof as may be needed, to the Utah state board on alcoholism to be used for administration expenses to June 30, 1957.

Section 2. Effective Date.
This act shall take effect upon approval.
Approved March 4, 1957.

CHAPTER 185

S. B. No. 270. (Passed March 14, 1957. In effect March 22, 1957.)

APPROPRIATION TO DEPARTMENT OF BUSINESS REGULATION

An Act Appropriating $7,300 from the General Fund to the Department of Business Regulation; Emergency Clause.

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

Section 1. Appropriation to Department of Business Regulation.
There is appropriated from the general fund to the Department of Business Regulation the sum of $7,300 to supplement the appropriation made by Items 55 and 56, Section 14, Chapter 164, Laws of Utah 1955, for conducting the operation of the department for the biennium July 1, 1955 to June 30, 1957.

Section 2. Effective Date.
This act shall take effect upon approval.
Approved March 22, 1957.

CHAPTER 186

S. B. No. 13 (Passed February 13, 1957. In effect February 20, 1957.)

APPROPRIATION TO STATE BOARD FOR VOCATIONAL EDUCATION

An Act Appropriating to the State Board for Vocational Education the Sum of $100,000.00 from the General Fund of the State Treasury,

for the Purposes of Costs of Operation of the Salt Lake Area Vocational School During the Remainder of the Present Biennium.

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

Section 1. Appropriation to State Board for Vocational Education.

There is hereby appropriated out of moneys of the general funds of the state treasury, not otherwise appropriated, the sum of $100,000.00 to the State Board for Vocational Education, to be used for operating expenses of the Salt Lake Area Vocational School to June 30, 1957.

Section 2. Effective Date.

This act shall take effect upon approval.

Approved February 20, 1957.

CHAPTER 187

H. B. No. 99. (Passed March 12, 1957. In effect March 22, 1957.)

APPROPRIATION TO UNIVERSITY OF UTAH OF REVENUES FROM GRANT FOR MINERS HOSPITAL

An Act Appropriating to the University of Utah all Revenues Which Have Been, or Will Be, Conveyed to the State of Utah by that Certain Federal Grant for a Miners' Hospital for Disabled Miners Contained in Section 12 of the Enabling Act, Which Revenues Now Are, or in the Future Will Be, in the Custody and Under the Control of the State Land Board to be Applied in the Construction, Equipment, Furnishings, and Operation, or Either or Any of the Same, on the Campus of Said University of a Rehabilitation Building, Either as a Separate Structure or as an Integrated Unit in the Proposed University of Utah Medical Center, and to be Staffed and Operated by the Medical School Assisted by an Advisory Committee in Accordance with Rules and Regulations of the Board of Regents of the University of Utah.

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

Section 1. Appropriation to University of Utah.

There is hereby appropriated to the University of Utah all revenues which have been, or will be, derived from the disposition of those lands conveyed to the State of Utah by that certain federal grant for a miners' hospital for disabled miners contained in section 12 of the enabling act, which revenues now are, or in the future will be, in the custody and control of the Utah state land board.

Section 2. Purposes to which Appropriation to be Put.

Said revenues shal be used for the construction, equipment, furnishings, and operation, or either or any of the same, on the campus of said university of a rehabilitation building, either as a separate structure or as an integrated unit in the proposed University of Utah Medical center.

Section 3. Operation and Staffing of Unit After Construction — Council Appointment — Term.

Upon construction of the building, the unit shall be staffed and operated as a subdivision of the college of medicine in accordance with the rules and regulations of the board of regents of the University of Utah, assisted by an advisory council. This council shall consist of not less than nine members interested in human rehabilitation and shall include one member (or his alternate) from each of the following organizations (or successor organizations having similar interest in the rehabilitation of persons impaired by injury or disease): United Mine Workers of America, United Steel Workers AFL-CIO, Utah Mining Association, State Department of Vocational Rehabilitation, State Industrial Commission, State Department of Welfare, State Board of Health, Utah Coal Operators, and the Rehabilitation Facility, with the dean of University of Utah college of medicine as ex officio members.

The members of the council shall be appointed to serve for a period of three years, except that initially three of the members shall serve for only one year and three additional members for only two years and three for three years. The initial rotation shall be determined by lot at the first meeting of the council. Vacancies occurring in the membership of the council shall be filled by the organization represented by the retiring member.

Section 4. Board Authorized to Accept Grants.

The board of regents is authorized to accept grants from the federal government and other donors and to contract with said federal government for matching funds and other assistance and, with the benefit of advice from the advisory council, to contract and enter into agreements with any and all political subdivisions and departments of this and adjoining states, and with organizations sponsoring rehabilitation, respecting charges for services to be rendered and to fix all costs for the same.

Section 5. Effective Date.

This act shall take effect upon approval.

Approved March 22, 1957.

RESOLUTIONS AND MEMORIALS

FIXING COMPENSATION OF LEGISLATIVE EMPLOYEES

S. J. R. No. 1. (Passed January 18, 1957.)

A Resolution Fixing Compensation of Officers and Employees of the Thirty-Second Legislature of Utah.

Be it resolved by the Legislature of the State of Utah:

WHEREAS, the Legislature of the State of Utah, acting under and by virtue of Section 36-2-2, Utah Code Annotated 1953, is empowered to fix the compensation of officers and employees of the Legislature by joint resolution at each session of said Legislature:

NOW, THEREFORE, BE IT RESOLVED that the compensation of the officers and employees of the Thirty-second Legislature be fixed as follows:

Secretary of the Senate and Chief Clerk of the House of Representatives	$18.00 per day
Reference Attorneys	17.00 per day
Sergeant-at-arms	16.00 per day
Minute Clerks	15.00 per day
Docket Clerks	15.00 per day
Reading Clerks	15.00 per day
Asst. Sgt.-at-arms	12.00 per day
Supervising Stenographer	12.00 per day
Engrossing Clerks	11.00 per day
Stenographers	11.00 per day
Typists	10.00 per day
Mailing Clerks	9.50 per day
Telephone Operators	9.50 per day
Messengers	9.50 per day
Doormen	9.50 per day
Chaplain	9.50 per day
Custodians	9.50 per day
Elevator Operators	9.50 per day
All other employees	9.50 per day

Said salaries to be paid semi-monthly.

BE IT FURTHER RESOLVED that no change in the schedule of compensation, as contained in this resolution, shall be made, either as bonus payments or any other types of compensation for officers and employees, except, such proposed change be first submitted to the Joint Committee on Contingent Expenses for the Senate and the House.

RESOLUTION PROPOSING CONSTITUTIONAL AMENDMENT PROVIDING FOR PROCEEDS OF SALE OF SCHOOL LANDS AND ROYALTIES FROM MINERAL LEASES OF SCHOOL LANDS TO BE A PART OF STATE SCHOOL FUND

S. J. R. No. 2. (Passed March 14, 1957.)

A Joint Resolution of the Senate and House of Representatives of the Thirty-Second Legislature of the State of Utah Proposing to Amend Section 3 of Article X of the Constitution of the State of Utah, Providing for Proceeds of Sale of School Lands and Royalties from Mineral Leases of School Lands to be a Part of the State School Fund.

Be it resolved by the Legislature of the State of Utah, two-thirds of all members elected to each of the two houses voting in favor thereof:

Section 1. It is proposed to amend Sec. 3 of Article X of the Constitution of the State of Utah to read:

Section 3. The proceeds of the sales of all lands that have been or may hereafter be granted by the United States to this state, for the support of the common schools, royalties received by the state as a result of mineral leases of lands that have been or may hereafter be granted by the United States to this state for support of the common schools, and five per centum of the net proceeds of the sales of United States public lands lying within the state and sold by the United States subsequent to the admission of this state into the Union, shall be and remain a permanent fund, to be called the State School Fund, the interest of which only, shall be expended for the support of the common school. The interest on the State School Fund, the proceeds of all property that may accrue to the state by the escheat or forfeiture, all unclaimed shares and dividends of any corporation incorporated under the laws of this state, the proceeds of the sales of timber, and the rentals received by the state from school and state lands, other than those granted for specific purposes, shall, with such other revenues as the legislature may from time to time allot thereto, constitute a fund to be known as the Uniform School Fund, which Uniform School Fund shall be maintained and used for the support of the common and public schools of the state and apportioned in such manner as the legislature shall provide. The provisions of Section 7, Article XIII of this Constitution shall be construed as a limitation in the rate of taxation on tangible property for district school purposes and not on the amount of funds available therefor and, further, no moneys allocated to the Uniform School Fund shall be considered in fixing the rates of taxation specified in Section 7 of Article XIII.

Section 2. The Secretary of State is directed to submit this proposed amendment to the electors of the State of Utah at the next general election in the manner provided by law.

RESOLUTION MEMORIALIZING CONGRESS TO ESTABLISH A REALISTIC PROGRAM OF ACTIVE DUTY BASIC TRAINING FOR THE ARMY NATIONAL GUARD

S. J. R. No. 4. (Passed February 1, 1957.)

A Joint Resolution of the Senate and House of Representatives Memorializing the Congress of the United States to Establish a Realistic Program of Active Duty Basic Training for the Army National Guard.

Be it resolved by the Legislature of the State of Utah:

WHEREAS, The Army National Guard of the State of Utah has attained the unprecedented peace time strength of 4,443, and

WHEREAS, The Army National Guard of the State of Utah is organized into 57 units and organizations located in 27 communities in this great and sovereign State; and

WHEREAS, The Army National Guard of the State of Utah is the exclusive Military Force of this State and under the Command of the Governor as provided by the Constitution of the United States; and

WHEREAS, The Army National Guard of the State of Utah has served its Country with distinction in time of emergency; namely, The Spanish American War, World War I, World War II, and in the Korean Emergency; and

WHEREAS, The Secretary of the Department of the Army of the Government of the United States has directed that all non-prior service enlistees of the Army National Guard of this State be required to undergo a period of six months active duty training with the United States Army as a condition precedent to their enlistment; and

WHEREAS, this proposed action is an administration determination by an Executive Branch of the Federal Government; namely, the Department of Defense which appears to negate legislative intent of the elected representatives of the people in the United States Congress; and

WHEREAS, This requirement is unreasonable, unrealistic, exceedingly detrimental to the Army National Guard of the State of Utah and will cause a serious reduction in the strength thereof; and

WHEREAS, The six months active duty training program can be accomplished in approximately three months with efficient organization and the omission of unnecessary features; and

WHEREAS, A three months active duty basic training program as a condition of enlistment is acceptable to the Army National Guard, and would encounter little if any opposition from Industry, Educators, Religious Groups and the parents and the young men of the Nation; now

THEREFORE, BE IT RESOLVED, By the Legislature of the State of Utah that it views with great alarm and disapproval the unwarranted action of the Secretary of the Army of the Government of the United States and that the Congress of the United States be called upon to establish a realistic program of active duty basic training for the National Guard.

BE IT FURTHER RESOLVED that copies of this resolution be forwarded to the Senators and members of the State of Utah in the National Congress.

RESOLUTION OF GRATITUDE TO CECIL B. DeMILLE

S. J. R. No. 9. (Passed February 19, 1957.)

A Joint Resolution of the Senate and House of Representatives of the State of Utah Expressing Gratitude to Mr. Cecil B. DeMille, Paramount Pictures Corporation, and to the Fox and Uptown Theatres of Salt Lake City for the Production and Presentation of "The Ten Commandments."

Be it resolved by the Legislature of the State of Utah:

WHEREAS, the members of the Legislature of the State of Utah were the guests of Mr. Cecil B. DeMille to witness his mighty production, THE TEN COMMANDMENTS, which in our opinion sets a new high standard of excellence, and

WHEREAS, we were thrilled with this magnificent spectacle and deeply impressed with so accurate a portrayal of God's dealings with ancient Israel in the Land of the Pharoahs,

NOW, THEREFORE, BE IT RESOLVED that the Senate and the House of Representatives of the State of Utah do extend to Mr. DeMille our gratitude and our congratulations for this amazing accomplishment, as the wonderful story of Moses is so vividly brought to life again.

BE IT FURTHER RESOLVED that we express our appreciation to the management of the Fox and Uptown Theatres for their courteous consideration and gracious invitation to the members of the Legislature to attend the showing of this great picture, and

BE IT FURTHER RESOLVED that a copy of this resolution be sent to Mr. DeMille and to the management of the Fox and Uptown Theatres of Salt Lake City.

Dated this 19th day of February in the year of our Lord 1957.

RESOLUTION OF APPRECIATION TO MR. AND MRS. NICHOLAS G. MORGAN, SR.

S. J. R. No. 10. (Passed March 13, 1957.)

A Resolution of Appreciation to Mr. and Mrs. Nicholas G. Morgan, Sr.

Be it resolved by the Legislature of the State of Utah:

WHEREAS, Mr. and Mrs. Nicholas G. Morgan, Sr. on February 26, 1957, gave to the Utah State Historical Society for the use, education and inspiration of the people, their outstanding personal library which they have acquired through the years, and the expenditure of much time and thousands of dollars; and,

WHEREAS, this library is one of the leading libraries in the west pertaining to pioneer Utah history, settlement and development; and,

WHEREAS, this library includes a Library of Pictures of historical pioneer photographs of the area, and which library is the largest of its kind in the state; and,

WHEREAS, the giving of this valuable collection of books, documents and pictures will greatly enhance the usefulness of the Utah State Historical Society; and,

WHEREAS, this generous gift to the people of the State of Utah is a worthy example of unselfishness in the public interest;

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the State of Utah does, hereby acknowledge with appreciation this beneficial gift, and hereby expresses its gratitude to the said Mr. and Mrs. Nicholas G. Morgan, Sr. for their liberal generosity in providing this great gift of lasting worth to the people of the State of Utah.

BE IT FURTHER RESOLVED, that a copy of this resolution be sent to Mr. and Mrs. Nicholas G. Morgan, Sr.

RESOLUTION MEMORIALIZING CONGRESS TO APPROPRIATE FUNDS TO STIMULATE THE PRODUCTION OF CERTAIN CRITICAL MINERALS

S. J. R. No. 11. (Passed March 14, 1957.)

A Joint Resolution of the 32nd Legislature of the State of Utah Memorializing Congress to Appropriate Sufficient Funds to Stimulate the Production of Certain Critical Minerals, Metals and Materials Indispensable in the Construction of Jet Engines.

Be it resolved by the Legislature of the State of Utah:

WHEREAS, the mining industry of the State of Utah is of great importance to the economic welfare of this state (as it is to many other states); and

WHEREAS, with the unsettled conditions existing throughout the entire world it is prudent and wise that our country, the United States of America, continue its program of preparedness; and

WHEREAS, bills have been introduced and are now pending in both houses of the Congress, providing for a strong long-range domestic minerals program out of which there should come congressional legislation carrying a sufficient appropriation to carry out a well balanced program which will add to the preparedness program and stimulate the mining industry in the United States in the production of the critical metals, minerals and materials, including antimony, asbestos, beryllium, chromite, cobalt, columbium-tantalum, fluorspar, iron, lead, manganese, mica, molybdenum, nickel, titanium, tungsten, vanadium, uranium, and zinc, all being used in the production of jet engines; now, therefor,

BE IT RESOLVED, by the Thirty second Legislature of the State of Utah, that the President of the United States and the Congress of the United States be memorialized to effect a long-range national domestic minerals program; and

BE IT FURTHER RESOLVED, that certified copies of this resolution be transmitted by the Secretary of the State to the President of the United States, to the presiding officer of the United States Senate, to the Speaker of the House of Representatives, and to the senators and representatives from the State of Utah.

RESOLUTION PROPOSING AMENDMENT TO STATE CONSTITUTION RELATING TO SYSTEMS OF PUBLIC ACCOUNTING UNDER STATE TAX LAWS

H. J. R. No. 2. (Passed January 29, 1957.)

A Joint Resolution Proposing an Amendment to Section 11 of Article XIII of the Constitution of the State of Utah Relating to Systems of Public Accounting under the Tax Laws of the State.

Be it resolved by the Legislature of the State of Utah, two-thirds of all members elected to each of the two houses voting in favor thereof:

Section 1. It is proposed to amend Section 11 of Article XIII of the Constitution of the State of Utah so that the same shall read as follows:

Section 11. There shall be a State Tax Commission consisting of four members, not more than two of whom shall belong to the same political party. The members of the Commission shall be appointed by the Governor, by and with the consent of the Senate, for such terms of office as may be provided by law. The State Tax Commission shall administer and supervise the tax laws of the State. It shall assess mines and public utilities and adjust and equalize the valuation and assessment of property among the several counties. It shall have such other powers of original assessment as the Legislature may provide. Under such regulations in such cases and within such limitations as the Legislature may prescribe, it shall review proposed bond issues, revise the tax levies of local governmental units, and equalize the assessment and valuation of property within the counties. The duties imposed upon the State Board of Equalization by the Constitution and Laws of this State shall be performed by the State Tax Commission.

In each county of this State there shall be a County Board of Equalization consisting of the Board of County Commissioners of said county. The County Boards of Equalization shall adjust and equalize the valuation and assessment of the real and personal property within their respective counties, subject to such regulation and control by the State Tax Commission as may be prescribed by law. The State Tax Commission and the County Boards of Equalization shall each have such other powers as may be prescribed by the Legislature.

Section 2. The Secretary of State is directed to submit this proposed amendment to the electors of the state at the next general election in the manner provided by law.

Section 3. If adopted by the electors of the state, this amendment shall take effect the first day of January, 1959.

RESOLUTION PROPOSING AMENDMENT TO UTAH CONSTITUTION RELATING TO EXEMPTION OF TANGIBLE PROPERTIES FROM TAXATION

H. J. R. No. 7. (Passed March 13, 1957.)

A Joint Resolution Proposing to Amend Article XIII, Section 2 of the Constitution of the State of Utah, Relating to Tangible Properties Exempt from Taxation.

Be it resolved by the Legislature of the State of Utah, two-thirds of all members elected to each of the two houses voting in favor thereof:

Section 1. It is proposed to amend Article XIII, Section 2 of the Constitution of the State of Utah, to read as follows:

Section 2. All tangible property in the state, not exempt under the laws of the United States, or under this constitution, shall be taxed in proportion to its value, to be ascertained as provided by law. The property of the state, counties, cities, towns, school districts, municipal corporations and public libraries, lots with the buildings thereon used exclusively for either religious worship or charitable purposes, and places of burial not held or used for private or corporate benefit, shall be exempt from taxation. Water rights, ditches, canals, reservoirs, power plants, pumping plants, transmission lines, pipes and flumes owned and used by individuals or corporations for irrigating land within the state owned by such individuals or corporations, or the individual members thereof, shall not be separately taxed as long as they shall be owned and used exclusively for such purposes. Power plants, power transmission lines and other property used for generating and delivering electrical power, a portion of which is used for furnishing power for pumping water for irrigation purposes on lands in the State of Utah, may be exempted from taxation to the extent that such property is used for such purposes. These exemptions shall accrue to the benefit of the users of water so pumped under such regulations as the legislature may prescribe. The taxes of the indigent poor may be remitted or abated at such times and in such manner as may be provided by law. The legislature may provide for the exemption from taxation of homes, homesteads, and personal property, not to exceed $2,000 in value for homes and homesteads, and all household furnishings, furniture, and equipment used exclusively by the owner thereof at his place of abode in maintaining a home for himself and family. Property not to exceed $3,000 in value, owned by disabled persons who served in any war in the military service of the United States or of the State of Utah and by the unmarried widows and minor orphans of such persons may be exempted as the legislature may provide.

The legislature shall provide by law for an annual tax sufficient, with other sources of revenue, to defray the estimated ordinary expenses of the state for each fiscal year. For the purpose of paying the state debt, if any there be, the legislature shall provide for levying a tax annually, sufficient to pay the annual interest and to pay the principal of such debt, within twenty years from the final passage of the law creating the debt.

Section 2. The secretary of state is directed to submit this proposed amendment to the electors of the State of Utah at the next general election in the manner provided by law.

Section 3. If adopted by the electors of this state, this amendment shall take effect the first day of January, 1959.

RESOLUTION PROPOSING CONSTITUTIONAL AMENDMENT RELATING TO COMPENSATION OF MEMBERS OF THE LEGISLATURE

H. J. R. No. 14. (Passed March 13, 1957.)

A Joint Resolution Proposing to Amend Article VI, Section 9 of the Constitution of the State of Utah Relating to Compensation of Members of the Legislature.

Be it resolved by the Legislature of the State of Utah, two-thirds of all members elected to each of the two houses voting in favor thereof:

Section 1. It is proposed to amend Article VI, Section 9 of the Constitution of the State of Utah to read as follows:

Section 9. The members of the Legislature shall receive such compensation, not exceeding $500 a year for the legislative term and expenses as provided by law while actually in session, and mileage as provided by law.

Section 2. The Secretary of State is directed to submit this proposed amendment to the electors of the state at the next general election in the manner provided by law.

Section 3. This amendment shall take effect upon approval by the electors of the state.

RESOLUTION OF APPRECIATION TO ALEX J. JEX

H. J. R. No. 17. (Passed March 9, 1957.)

A Joint Resolution of the House of Representatives and the Senate of the State of Utah Showing Appreciation to Alex J. Jex, President of the Utah State School Employees' Retirement Board Who Will Have Served as a Member and Officer of Said Board and its Predecessor, The Teachers' Retirement Board, for Twenty Years on May 29, 1957.

Be it resolved by the Legislature of the State of Utah:

WHEREAS, Alex J. Jex, was appointed to the Teachers' Retirement Board, effective May 29, 1937, by Governor Henry H. Blood; and

WHEREAS, he has been reappointed to the Teachers' Retirement Board for terms of five years each, once by Governor Herbert B. Maw, and twice by Governor J. Bracken Lee; and

WHEREAS, he has served not only as a member, but, also as president since July 5, 1943 and is presently serving in that capacity, and

on May 29, 1957 will have completed twenty years of service on said Board; and

WHEREAS, he has earned the honor, respect and affection of his fellow board members, and employees of the Board, as well as countless members and retirants of the Retirement System; and

WHEREAS, he has with devotion, distinction and fairness represented the people of Utah in the administration of the Teachers' Retirement System and the School Employees' Retirement System.

NOW THEREFORE BE IT RESOLVED, that the Legislature of the State of Utah, does express sincere appreciation to Alex J. Jex and pay tribute to him and his earnest devotion as an outstanding public servant.

BE IT FURTHER RESOLVED, that the Secretary of State of the State of Utah forward a copy of this resolution to Alex J. Jex and a copy to the School Employees' Retirement Office where it may be suitably displayed.

RESOLUTION OF COMMENDATION TO MAURICE ABRAVANEL

H. J. R. No. 18. (Passed March 9, 1957.)

A Joint Resolution of the Thirty-Second Legislature of the State of Utah Commending Maurice Abravanel, Upon Completion of his Tenth Season as Conductor and Musical Director of the Utah State Symphony.

Be it resolved by the Legislature of the State of Utah:

WHEREAS, Maurice Abravanel has completed ten years as conductor and musical director of the Utah State Symphony; and

WHEREAS, the Utah State Symphony orchestra, under the direction of Maurice Abravanel has attained national recognition, and has brought to Utah the finest artists in the world to perform as soloists; and

WHEREAS, under the direction of Mr. Abranavel the orchestra has added substantially to the culture of the State of Utah and its people, and has provided great enjoyment, satisfaction and inspiration to our people; and

WHEREAS, the Utah State Symphony orchestra, under the direction and guidance of Maurice Abravanel has become an institution where all musically gifted people of the State of Utah can aspire for the fullest realization and expression of their talents.

NOW THEREFORE, BE IT RESOLVED, that the Legislature of the State of Utah does hereby express its most hearty thanks to Maurice Abravanel in deep appreciation of his untiring and successful efforts in providing musical enjoyment and cultural advancement to the people of our state; and

BE IT FURTHER RESOLVED, that the Legislature of the State of Utah does, on behalf of itself and the people of the State of Utah, sincerely express its hope and desire that Maurice Abravanel will continue to serve in this capacity.

BE IT FURTHER RESOLVED, that a copy of this resolution be delivered to Maurice Abravanel.

RESOLUTION MAKING ASSIGNMENTS OF STUDY TO UTAH LEGISLATIVE COUNCIL

H. J. R. No. 20. (Passed March 13, 1957.)

A Joint Resolution of the Senate and House of Representatives of the 32nd Legislature of the State of Utah Making Assignments of Study to the Utah Legislative Council and Requesting a Report to the 33rd Legislature.

Be it resolved by the 32nd Legislature of the State of Utah:

WHEREAS, the Utah Legislative Council, by Title 36, Chapter 4, Utah Code Annotated 1953, as amended by Senate Bill 24 of the 32nd Legislature, is created to serve the Legislature of the State of Utah as a continuing research body, to serve as a medium for improving the legislative function through the examination of existing statutes, to study revenue and expenditures, governmental organization, and issues of public policy and questions of state-wide interest, and

WHEREAS, the Utah Legislative Council serves as the Interstate Cooperation Commission and as advisory council to the Public Welfare Commission, and

WHEREAS, the Utah Legislative Council, by joint rule No. 47 of the 32nd Legislature is designated as an arm of the Legislature and answerable to the Legislature, with authorities as specified in such rule, and

WHEREAS, the 32nd Legislature has been confronted with important legislative problems concerning the welfare of the State of Utah which are in need of adequate study and proper solution.

NOW, THEREFORE BE IT RESOLVED, that the 32nd Legislature of the State of Utah, both houses concurring therein, requests the Utah Legislative Council to study and prepare a legislative program for the 33rd Legislature of the State of Utah, as follows:

1. Taxation—A continued study of the Utah tax system to determine the most equitable distribution of the tax burden for state and local governmental purposes; to appraise financial requirements and recommend a tax program to meet the needs of the state and local government. The tax study shall include:
   a. An examination of the mine occupation tax, its relationship to other taxes, its coverage and application and the need for utilization of taxes on natural resources.
   b. Property assessments, equalization and exemptions, and the application of the property tax to federal lands, including Indian lands, oil and gas deposits and ore in place.
   c. Tax loopholes, evasions and inequities.
   d. The advisability of taxing trading stamps or converting unredeemed stamps for state purposes.
   e. Income, franchise, sales and excise taxes, their use and application.
2. Land leases and fees—The charging of fees, determination of rights, applications to lease lands, and other items covered in S. B. 82 of the 32nd Legislature as introduced.
3. Examination of public funds and functions as provided in S. B. 24 of the 32nd Legislature, establishing a legislative auditor.
4. Appropriation of state funds to charitable institutions and agen-

cies—To determine the advisability of the state appropriating funds to private institutions and agencies for charitable or other purposes.

5. Corporation laws—To study corporation laws in Utah through a committee of the Utah State Bar and to make available the findings and recommendations of the committee to the 33rd Legislature.

6. Local government survey—To follow up the study made by the Local Government Survey Commission through the appointment of an appropriate committee, to include representatives of cities and towns, counties, legislators, educational institutions, and other citizens and to recommend to the 33rd Legislature a further implementation of the findings of the Local Government Survey Commission.

7. Highways—A study of state and local highways, roads and street needs and the allocation of highway costs among various highway users. Also a study of road designations through the establishment of standards or guide posts for the proper designation of roads. The study of highway needs and cost allocation shall be made in cooperation with the State Road Commission, with the study research financed by the State Road Commission and the Federal Bureau of Public Roads.

8. Public education—A continued review of public school problems relating to school organization, administration, financing, curriculum, training of handicapped children, and school buildings, and a study of post high school and college training to determine the most effective system of post high school and advanced training for the state.

9. Claims against the state—A study of the manner in which special claims against the state may be effectively considered and properly settled.

10. Reorganization of state commissions and boards.

11. Healing arts—To study licensing provisions and regulations of the various branches of healing arts, with particular emphasis on the practice of naturopathy.

12. Relocation of the Industrial school at Ogden.

13. To study the corrupt practices act with particular reference to campaign expenditures.

14. To study the juvenile court system and the proposal to combine the matter of domestic relations with the juvenile problem.

In providing study assignments, the Legislature hereby directs the Legislative Council to select the items which it considers of greatest importance to the welfare of the state, within the limits of funds provided, from the items herein specified or from other matters which may arise during the interim period which are considered to be essential. The Council is directed to report its findings and recommendations to the 33rd Legislature as provided by law. In the discharge of its official duties, the Legislative Council shall be independent from the administrative and judicial branches of government in the management of its affairs, in the employment of personnel, and in the expenditures of funds for salaries, travel, current expenses, and other purposes. The Council shall recommend to the Governor the need for a special session of the Utah Legislature if in its judgment the findings of the Council in the pursuit of its studies justify such action.

RESOLUTION OF CONDOLENCES TO FAMILY OF WILLIAM R. WALLACE

S. C. R. No. 1. (Passed January 30, 1957.)

A Concurrent Resolution Extending Condolences to the Family of William R. Wallace, Deceased.

Be it resolved by the Legislature of the State of Utah, the Governor concurring therein:

WHEREAS, William R. Wallace, known as "Mr. Reclamation" died on the 29th day of January, 1957; and

WHEREAS, William R. Wallace dedicated his long, fruitful life to civic service and the promotion of natural resource development in the State of Utah; and

WHEREAS, he was a cultured gentleman beloved of all, and

WHEREAS, his tireless efforts have been of invaluable benefit to the State of Utah; and

WHEREAS, his death is a loss, not only to his family, but to the entire State of Utah and the Intermountain area; now therefore,

BE IT RESOLVED, that the Legislature of the State of Utah, the Governor concurring therein, expresses to the bereaved family of William R. Wallace its sincere sympathy and pays tribute to his integrity, devotion and service to the state; and

BE IT FURTHER RESOLVED, that the Secretary of State forward a copy of this Resolution to the family of William R. Wallace, deceased.

RESOLUTION MEMORIALIZING CONGRESS TO FAVORABLY CONSIDER "WESTERN WATER RIGHTS SETTLEMENT ACT OF 1957"

S. C. R. No. 5. (Passed March 13, 1957.)

A Concurrent Resolution Memorializing the Congress of the United States to Favorably Consider What is Known as the "Western Water Rights Settlement Act of 1957."

Be it Resolved by the Legislature of the State of Utah, the Governor concurring therein:

WHEREAS, the security of rights to the use of water for beneficial purposes is essential in an orderly process of water resource development; and

WHEREAS, the Federal Government, in its proprietorship functions derived from the ownership of the public lands, and in the exercising of its powers relating to Interstate Commerce and the general welfare, should not interfere with the security of water rights under state law; and

WHEREAS, for more than ninety years this policy has been recognized by the Congress and the acquisition of water rights under state law has been encouraged and repeatedly protected by federal legislation; now, therefore,

BE IT RESOLVED by the Thirty-second Legislature of the State of Utah, the Governor concurring therein, that the 85th Congress of the United States of America be and it is hereby memorialized to promptly, thoroughly and fairly consider and favorably act upon legislation known as the "Western Water Rights Settlement Act of 1957," providing for the future acquisition of water rights in compliance with state laws and to remove any uncertainties with respect to water rights introduced by previous acts of Congress, in order that vital development of water resources can be realized without conflict with established state laws.

BE IT FURTHER RESOLVED that certified copies of the above be transmitted to the President and Vice-President of the United States, the Speaker of the House of Representatives of the Congress, United States Senator Arthur V. Watkins, United States Senator Wallace F. Bennett, Representative William A. Dawson and Representative Henry Aldous Dixon, and to the Governors and Legislatures of the following states: Arizona, Colorado, New Mexico and Wyoming.

RESOLUTION MEMORIALIZING CONGRESS TO PROVIDE EFFECTIVE LONG RANGE MINERAL POLICY

S. C. R. No. 6. (Passed March 13, 1957.)

A Concurrent Resolution Memorializing the Congress of the United States to Provide an Effective Long Range Mineral Policy.

Be it Resolved by the Legislature of the State of Utah, the Governor concurring therein:

WHEREAS, the mining industry is of basic importance to Utah in its present economy and in its expectation of future growth; and

WHEREAS, the short range, expedient policies and programs of the Federal Government have failed to sustain and to promote a healthy domestic mining industry; and

WHEREAS, those policies and programs are affecting adversely an increasing number of minerals and metals vital to Utah and to her sister states; and

WHEREAS, such expedient policies and programs have been adopted as temporary relief measures, in lieu of responsible tariff and import control measures; and

WHEREAS, the Secretary of the Department of the Interior has been charged by the Administration with the responsibility of preparing a Long Range Mineral Policy to sustain and to develop the domestic mining industry; and

WHEREAS, that policy has not been prepared and as a result the domestic mining industry is being increasingly restricted and threatened under the existing expedient policies and programs which control relationship of domestic mining to markets in international trade; now, therefore,

BE IT RESOLVED by the Thirty-second Legislature of the State of Utah, the Governor concurring therein, that the 85th Congress of the United States of America be and it is hereby memorialized to

insist that the promised long range mineral policy be promptly presented for its consideration and that in the consideration of that policy the Congress assure to the domestic mining industry the right to fair competition in the domestic market for the sale of its products, considering production costs in our domestic economy as compared with production costs in the economies of the competing foreign areas;

BE IT FURTHER RESOLVED that the Congress further provide that the domestic producers of minerals be assured treatment by our Government no less favorable in all respects than is being accorded the foreign producers of minerals and metals;

BE IT FURTHER RESOLVED that the control of tariffs and duties be returned to the jurisdiction of the Congress as is constitutionally provided.

BE IT ALSO RESOLVED, that certified copies of the above be promptly transmitted to the President and Vice-President of the United States, the Speaker of the House of Representatives of the Congress, United States Senator Arthur V. Watkins, United States Senator Wallace F. Bennett, Representative William A. Dawson and Representative Henry Aldous Dixon, and the Honorable Secretary of the Interior of the United States.

RESOLUTION MEMORIALIZING CONGRESS TO MAKE APPROPRIATIONS FOR PROJECT PLANNING AND CONSTRUCTION OF COLORADO RIVER STORAGE PROJECT

S. C. R. No. 7. (Passed March 13, 1957.)

A Concurrent Resolution Memorializing the Congress of the United States to Make Adequate Appropriations for Project Planning and Construction of the Colorado River Storage Project and Participating Projects.

Be it Resolved by the Legislature of the State of Utah, the Governor concurring therein:

WHEREAS, it is an indisputable fact that water is the life blood of municipal and agricultural existence; and

WHEREAS, the conservation and wise use of water can only be made possible by the construction of strategic facilities; and

WHEREAS, Federal participation in water and land resource development has proved to be a most attractive investment, and is in the best interest of the people; and

WHEREAS, the completion of reports and the construction of units of the Colorado River Storage Project on an adequate basis is most desirable from the standpoint of the state and the nation; now, therefore,

BE IT RESOLVED by the Thirty-second Legislature of the State of Utah, the Governor concurring therein, that the 85th Congress of the United States of America be and it is hereby memorialized to appropriate adequate funds to permit the preparation of reports and provide for the construction of units of the Colorado River Storage

Project on a realistic scale, consistent with the economic growth of the country and the ever increasing need for water; and

BE IT FURTHER RESOLVED that certified copies of the above be promptly transmitted to the President and Vice-President of the United States, the Speaker of the House of Representatives of the Congress, United States Senator Arthur V. Watkins, United States Senator Wallace F. Bennett, Representative William A. Dawson and Representative Henry Aldous Dixon, and to the Governors and Legislatures of the following states: Arizona, Colorado, New Mexico and Wyoming.

RESOLUTION MEMORIALIZING CONGRESS TO ASSERT CONSTITUTIONAL AUTHORITY IN CONSERVATION AND DEVELOPMENT OF LAND AND WATER RESOURCES

S. C. R. No. 8. (Passed March 13, 1957.)

A Concurrent Resolution Memorializing the Congress of the United States to Assert its Constitutional Authority in the Conservation and Development of Land and Water Resources.

Be it Resolved by the Legislature of the State of Utah, the Governor concurring therein:

WHEREAS, the conservation and wise use of water is of foremost importance to the future agricultural and economic development and the general welfare of the Western United States and to the United States; and

WHEREAS, the stabilization of the national economy and the effectuation of the wisest, most orderly and most economic utilization of the land and water resources of the nation for the greatest possible public benefit, require that the Federal Government continue to exercise all of its constitutional powers, not only to encourage but to participate in the conservation and development of such resources for all purposes; and

WHEREAS, the continued nullification by the executive agencies of this fundamental and long established national policy would constitute a usurpation of legislative power; and

WHEREAS, the land and water resources development should be planned on a comprehensive basis with an ultimate integrated operation to achieve the maximum beneficial use; and

WHEREAS, the number of federal agencies, offices and organizations having to do with the planning and review of projects for the conservation and development of land and water resources should be reduced; and

WHEREAS, the technical and administrative routing and review procedures should be simplified and shortened in order to facilitate and accelerate the submittal of reports to the Congress in support of requests for the authorization of projects; and

WHEREAS, new population and the economic development of this great nation will make ever increasing demands on our limited water

supply, necessitating that we look beyond the readily accessible supplies which have been developed, and establish a sound, comprehensive procedure to assure the wisest, most orderly development of our land and water resources; now therefore,

BE IT RESOLVED by the Thirty-second Legislature of the State of Utah, the Governor concurring therein, that the 85th Congress of the United States of America be and it is hereby memorialized to continue to exercise all of its constitutional powers to encourage the conservation and development of resources on a comprehensive basis with reduced and simplified review and routing procedures and that corrective legislation be enacted if necessary to carry out the sense of Senate Resolution 281 of the 84th Congress.

BE IT FURTHER RESOLVED that certified copies of the above be promptly submitted to the President and Vice-President of the United States, the Speaker of the House of Representatives of the Congress, United States Senator Arthur V. Watkins, United States Senator Wallace F. Bennett, Representative William A. Dawson and Representative Henry Aldous Dixon, and to the Governors and Legislatures of the following states: Arizona, Colorado, New Mexico and Wyoming.

RESOLUTION MEMORIALIZING CONGRESS TO REQUIRE SECRETARY OF INTERIOR TO REVOKE A WITHDRAWAL OF LANDS IN SAN JUAN COUNTY, UTAH

S. C. R. No. 9. (Passed March 13, 1957.)

A Concurrent Resolution Memorializing the Congress of the United States to Require the Secretary of the Interior to Revoke a Withdrawal of Lands in San Juan County, Utah.

Be it Resolved by the Legislature of the State of Utah, the Governor concurring therein:

WHEREAS, The Secretary of Interior on February 8, 1957, issued an order withdrawing approximately 73,600 acres of land in San Juan County, Utah; and

WHEREAS, the said withdrawal adversely affects the use of such land by long established livestock users and will create a great economic hardship upon such users; and

WHEREAS, the said withdrawal is in an area of increasing mineral development, and such withdrawal can adversely affect the development of these resources; and

WHEREAS, in the event said withdrawn lands are made a part of the Navajo Indian Reservation, the revenues received by the State of Utah under the Federal Leasing Act will be substantially decreased; and

WHEREAS, no hearing upon the merits or necessity for the withdrawal was given to the people of Utah, and

WHEREAS, said withdrawal will adversely affect property rights and long established uses of said land, and

WHEREAS, the impact of said withdrawal will create economic hardships upon the people of this State;

WHEREAS, by the Act of March 1, 1933, 72 Congress, Second Session (Vol 47 U. S. Statutes page 1418 Chapter 160) Congress ordained that no further allotment of lands to Indians on the public domain would be made in San Juan County, Utah, and

WHEREAS, the Secretary of Interior's withdrawal is in contradiction of said Act of Congress, now, therefor,

BE IT RESOLVED by the Legislature of the State of Utah, the Governor concurring therein, that the Congress of the United States require that the Secretary of the Interior revoke his withdrawal of February 8, 1957, relating to approximately 73,600 acres of land in San Juan County, Utah.

BE IT FURTHER RESOLVED, that the Congress of the United States refuse to pass any legislation which would implement the withdrawal of February 8, 1957.

BE IT FURTHER RESOLVED, that the Secretary of State of Utah be and is hereby authorized and directed to send copies of this concurrent memorial to the President of the United States, to the Senate and House of Representatives of the United States, to the Senators and Congressmen representing Utah in the national Congress, and to the Honorable Secretary of the Interior of the United States.

RESOLUTION OF CONDOLENCE TO FAMILY OF WILLIAM L. BEEZLEY

H. R. No. 1. (Passed February 28, 1957.)

A Resolution of Condolence to the Family of William L. Beezley—in Memoriam.

Be it resolved by the House of Representatives of the State of Utah:

WHEREAS, William L. Beezley died on the 25th day of January 1957 at Salt Lake City, Utah; and,

WHEREAS, he was a prominent figure in the field of business and law who was respected and honored not only by his colleagues, but by all with whom he came in contact, and

WHEREAS, he was a former member of the Legislature of the State of Utah, having served with distinction in the House of Representatives in 1951 where he represented his county and state with fidelity; and,

WHEREAS, it is indeed fitting that the members of the House of Representatives of the State of Utah pay tribute to this legislator and leader, and the heartfelt sympathy of the members of the House of Representatives be expressed to the family of this good man at this time of sorrow;

NOW, THEREFORE, BE IT RESOLVED by the House of Representatives of the State of Utah that this expression of the esteem in which William L. Beezley was held be made and that the sincere sympathies and condolences of the House of Representatives be conveyed to his family. His was a life of service, devotion, and integrity. His passing will be a distinct loss to his family, his county, and his state.

BE IT FURTHER RESOLVED that copies of this resolution be forwarded to the family of William L. Beezley.

RESOLUTION OF CONDOLENCE TO REPRESENTATIVE LIONEL L. PETERSON AND HIS FAMILY

H. R. No. 2. (Passed March 11, 1957.)

A Resolution of Condolence to Representative Lionel L. Peterson and His Family—in Memoriam.

Be it resolved by the Legislature of the State of Utah:

WHEREAS, Lionel L. Peterson is a member of the Utah House of Representatives and has served with distinction for three consecutive terms as such; and

WHEREAS, Representative Lionel L. Peterson has endeared himself to his fellow members of the House who respect and admire him; and

WHEREAS, his son Albert L. Peterson has met an untimely death in an automobile accident since the preceding term.

NOW THEREFORE BE IT RESOLVED, that the members of the House of Representatives of the State of Utah do hereby express sincere sympathy to Representative Lionel L. Peterson and his family upon the death of their son.

BE IT FURTHER RESOLVED that a copy of this resolution be delivered to Representative Lionel L. Peterson and his family.

RESOLUTION OF CONDOLENCE TO REPRESENTATIVE ARCHIE O. GARDNER AND FAMILY

H. R. No. 3. (Passed March 12, 1957.)

A Resolution of Condolence to Representative Archie O. Gardner and His Family—in Memoriam.

Be it resolved by the House of Representatives of the State of Utah:

WHEREAS, Archie O. Gardner is a member of the Utah House of Representatives, and has served with distinction for four terms as a representative of Millard County; and

WHEREAS, Maline Glazier Gardner, wife of Representative Archie O. Gardner, has passed away since the preceding term;

NOW, THEREFORE, BE IT RESOLVED, that the House of Representatives does hereby express sincere sympathy to Representative Archie Gardner and his family upon the death of their Wife and Mother.

BE IT FURTHER RESOLVED, that a copy of this resolution be delivered to Archie O. Gardner and his family.

RESOLUTION OF COMMENDATION TO PATRICK R. ECKMAN

H. R. No. 4. (Passed March 13, 1957.)

A Resolution of Commendation to Patrick R. Eckman.

Be it resolved by the House of Representatives of the State of Utah:

WHEREAS, Patrick R. Eckman has served with distinction in reporting news of the House of Representatives for the Salt Lake Tribune since 1945; and

WHEREAS, Patrick R. Eckman has been employed as a staff member of Congressman William A. Dawson, and will leave immediately for his new employment.

NOW, THEREFORE, BE IT RESOLVED, that the House of Representatives of the State of Utah does hereby commend Patrick R. Eckman for his outstanding job of reporting and extends to him best wishes for success in his new endeavor.

BE IT FURTHER RESOLVED, that a copy of this resolution be delivered to Patrick R. Eckman.

RESOLUTION OF CONDOLENCE TO FAMILY OF ISAAC A. SMOOT

H. R. No. 5. (Passed March 13, 1957.)

A Resolution of Condolence to the Family of Isaac A. Smoot—in Memoriam.

Be it resolved by the House of Representatives of the State of Utah:

WHEREAS, Isaac Albert Smoot was a member of the House of Representatives, serving with distinction as floor leader and Speaker of the House; and

WHEREAS, Isaac Albert Smoot has rendered outstanding and meritorious civic service to his community, state and nation; and

WHEREAS, Isaac Albert Smoot passed away on Tuesday, March 12, 1957 in Chicago, Illinois while serving as President of the Northern States Mission of the Church of Jesus Christ of Latter Day Saints.

NOW, THEREFORE, BE IT RESOLVED that the House of Representatives of the State of Utah does hereby express sincere sympathy to his bereaved family and pays tribute to him for his integrity, devotion and service.

BE IT FURTHER RESOLVED, that a copy of this resolution be delivered to the family of Isaac Albert Smoot.

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